

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

-----X

UNITED STATES OF AMERICA

Plaintiff,

Criminal Action No. 06-76 (GMS)

v.

CHIAN SPIRIT MARITIME ENTERPRISES, INC.,  
VENETICO MARINE S.A., *et al.*

Defendants.

-----X

**DEFENDANTS, CHIAN SPIRIT MARITIME ENTERPRISES, INC.  
AND VENETICO MARINE, S.A.'s, OBJECTIONS AND REQUEST FOR  
PRETRIAL RULINGS AS TO THE ADMISSIBILITY OF THE FOLLOWING  
PORTIONS OF THE RULE 15 DEPOSITION TESTIMONY OF  
EDGAR VILLANO.**

COME NOW, moving defendants, Venetico Marine, S.A. ("Venetico") and Chian Spirit Maritime Enterprises, Inc. ("CSME")(collectively, "Moving Defendants"), who respectfully request that this Honorable Court consider and rule, before the voir dire of the jury panel, and out of the presence and hearing of the jury panel, as to the admissibility of the following Rule 15 deposition testimony by Edgar Villano, which the Government has stated it will seek to introduce at trial.<sup>1</sup>

Specifically, Moving Defendants object to the admissibility of the following deposition testimony by Edgar Villano, the "Second Engineer" on board the M/V IRENE

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<sup>1</sup> For the Court's ready reference, Moving Defendants advise that in order to facilitate the deposition process, counsel for all parties agreed to expressly reserve making objections during the examination.

E.M., on the following grounds. For the Court's ready reference, a correct and true copy of the transcript of the Rule 15 deposition of Mr. Conge, conducted at the office of the United States Attorney, 700 Nemours Building, 1007 Orange Street, Wilmington, Delaware, on Monday, July 17, 2006, is attached hereto as Exhibit "A".

**Edgar Villano (Second Engineer)**

Moving Defendants object to the introduction of the following testimony, as it lacks sufficient foundation; calls for speculation; calls for strictly inadmissible hearsay responses; assumes facts not in evidence and, if admitted, would be unfairly prejudicial, confusing and otherwise misleading to the trier of fact:

Page 9/lines 6 -20 (relevance);  
Page 16/lines 4 – 15 (leading; lacks foundation; calls for speculation);  
Page 21/lines 14 -21 (leading);  
Page 22/lines 4 – 16 (hearsay; leading);  
Page 23/line 7 - Page 24/line 9 (impermissible use of prior Grand Jury testimony; improper impeachment; leading);  
Page 24/line 16-19 (hearsay);  
Page 25/line 19 – Page 26/line 12; (hearsay);  
Four page statement marked for identification as "Defense Exhibit 13" (privileged document prepared at request of counsel)<sup>2</sup>; and  
Page 30/line 4 – Page 33/line 8 (leading; impermissible use of prior Grand Jury testimony; improper impeachment);

**CONCLUSION**

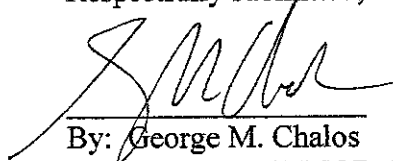
For the reasons more fully set forth above, Moving Defendants respectfully request that this Honorable Court issue an Order:

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<sup>2</sup> See also, Exhibit "A," Transcript Page 94/lines 7 -22; See also, Transcript Page 115/line 18 – Page 117/line 16.

- (1) Granting Moving Defendants' application to exclude, either in its entirety or to the extent the Court finds just and proper, the foregoing objectionable portions of the Rule 15 deposition testimony and redact CSME Exhibit 13 for the reasons more fully set forth above; and
- (2) For any and all such other and further relief which the Court deems to be just and proper under the specific circumstances of this matter.

Respectfully submitted,



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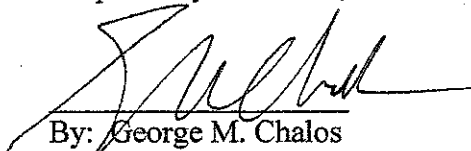
**CERTIFICATE OF SERVICE**

I do hereby certify that, on this 6th day of November 2006, I have served a copy of the foregoing pleading on counsel for all parties to this proceeding, by Email and by mailing the same by United States mail, properly addressed, and first-class postage prepaid to the following:

United States Department of Justice  
U.S. Attorney's Office  
Nemours Building  
1007 N. Orange Street, Suite 700  
Wilmington, Delaware 19801  
Attn: Edmond Falgowski, Esq.

United States Department of Justice  
Environmental Crimes Section  
P.O. Box 23985  
L'Enfant Plaza Street  
Washington, D.C. 20026  
Attn: Gregory Linsin, Esq.  
Jeffrey Phillips, Esq.  
Tracy Katz, Esq.

Respectfully submitted,



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# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

UNITED STATE OF AMERICA, :  
 : No.  
Plaintiff, : 1:06-CR-00076-GMS-2  
 :  
vs. :  
 :  
CHIAN SPIRIT MARITIME :  
ENTERPRISES, INC., VENETICO :  
MARINE S.A., IRENE E/M, :  
EVANGELOS MADIAS, CHRISTOS :  
PAGONES, ADRIEN DRAGOMIR, :  
 :  
Defendants. :

Videotaped deposition of EDGAR  
VILLANO, taken pursuant to notice before Gail Inghram  
Verbano, CSR, RMR, in the offices of United States  
Department of Justice, 700 Nemours Building, 1007  
Orange Street, Wilmington, Delaware, on Monday,  
July 17, 2006, beginning at approximately 12:06 p.m.

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2 (Pages 2 to 5)

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## 1 APPEARANCES:

2 MARK W. KOTILA, ESQ.  
 3 JEFFREY L. PHILLIPS, ESQ.  
 4 United States Department of Justice  
 5 Environmental Crimes Section  
 6 P.O. Box 23985 - L'Enfant Plaza  
 7 Washington, DC 20026-3985  
 8 Attorneys for Plaintiff  
 9 GEORGE M. CHALOS, ESQ.  
 10 FOWLER, RODRIGUEZ & CHALOS  
 11 366 Main Street  
 12 Port Washington, NY 11050  
 13 Attorney for Defendants Chian Spirit  
 14 and Venetico Marine  
 15  
 16 CARL R. WOODWARD, III, ESQ.  
 17 CARELLA, BYRNE, BAIN, GILFILLAN,  
 18 CECCHI, STEWART & OLSTEIN  
 19 5 Becker Farm Road  
 20 Roseland, NJ 07068-1739  
 21 Attorney for Defendant Dragomir

## 13 ALSO PRESENT:

14 Chris Weiss, Videographer  
 15 Chris Masaoay, Tagalog Interpreter  
 16  
 17 Adrien Dragomir  
 18 Liviu-Lee Roth  
 19 Brent McKnight  
 20 Jason F. Burgess  
 21  
 22  
 23  
 24

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1 Enterprises.

2 MR. WOODWARD: And Carl Woodward on  
 3 behalf of Adrien Dragomir.

4 MR. TWERSKY: Michael Twersky on  
 5 behalf of the witness.

6 THE VIDEOGRAPHER: Will the court  
 7 reporter please administer the oath.

8 - - -

9 (CHRIS MASAOAY was previously sworn  
 10 in as Tagalog-English interpreter.)

11 - - -

12 EDGAR VILLANO, having first been  
 13 duly sworn through the interpreter according to law,  
 14 was examined and testified as follows:

15 - - -

## 16 DIRECT EXAMINATION

17 BY MR. KOTILA:

18 Q Good afternoon, Mr. Villano. How are  
 19 you?

20 A I'm okay, sir.

21 Q My name is Mark Kotila, and I'm here on  
 22 behalf of the United States.

23 A Yes.

24 Q And we have spoken in the past; correct?

Page 3

1 THE VIDEOGRAPHER: This is Chris  
 2 Weiss, the videographer, and the court reporter today  
 3 is Gail Verbano. We are both here from the firm of  
 4 Corbett & Wilcox, located at 230 North Market Street,  
 5 Wilmington, Delaware.

6 The time is 2:06 on Monday  
 7 July 17th, 2006. We are documenting the videotaped  
 8 deposition of Edgar Villano for the plaintiff in the  
 9 matter of United States of America versus Chian  
 10 Spirit Maritime Enterprises, Inc., Venetico Marine,  
 11 Irene E.M., Evangelos Madias, Christos Pagones,  
 12 Adrien Dragomir, in the United States District Court,  
 13 District of Delaware.

14 We are at the location of the  
 15 United States Attorney's office, Nemours Building,  
 16 1007 North Orange Street, Suite 700, Wilmington,  
 17 Delaware.

18 Will the attorneys please state  
 19 their appearance for the record.

20 MR. KOTILA: Good afternoon. My  
 21 name is a Mark Kotila on behalf of the United States.  
 22 I should correct, it's actually 12:06.

23 MR. CHALOS: George Chalos on  
 24 behalf of Venetico Marine and Chian Spirit Maritime

Page 5

1 A Yes, sir.

2 Q You testified previously in this matter?

3 A Yes, sir.

4 Q And we spoke -- I'm not sure exact times,  
 5 maybe once or twice -- in the United States  
 6 Attorney's office?

7 A Yes, sir.

8 Q And then, correct, last week we spoke in  
 9 your attorney's office, Mr. Twersky's office,  
 10 briefly?

11 A Yes, sir.

12 Q All right. Where do you currently  
 13 reside?

14 A At the Doubletree Hotel.

15 Q Where are you from? What country?

16 A Philippines.

17 Q And what is your address there?

18 A 4649 Pinagbuklod Street, Santa Mesa,  
 19 Manila.

20 Q Thank you.

21 Could you tell us, what is your  
 22 occupation?

23 A Second engineer.

24 Q Now, how do you become a second engineer?

Edgar Villano

3 (Pages 6 to 9)

Page 6

1 A You need to take a board exam from the  
2 PLC, Philippine Regulation Commission.  
3 Q How much basic schooling do you have?  
4 A Two years.  
5 Q Any college?  
6 A College.  
7 Q Degree?  
8 A Yes.  
9 Q Four-year degree?  
10 A Two-year degree. Two years apprentice,  
11 and then you can take as a fourth engineer.  
12 Q And this is all in the shipping industry?  
13 A Yes, sir.  
14 Q What kind of training have you had in  
15 addition to school?  
16 A There is a lot. I cannot tell you, sir.  
17 Q Give us a little summary, some of your  
18 courses you've taken.  
19 A MARPOL 1 and 2.  
20 Q What did you learn in MARPOL 1 and  
21 MARPOL 2?  
22 A That it's illegal to dispose overboard  
23 any oil.  
24 Q Do you learn in MARPOL 1 and MARPOL 2 how

Page 7

1 to handle bilge waste and oil sludge and things like  
2 that?  
3 A They did not teach us how to operate it.  
4 Q Okay. You just know whether it's right  
5 or wrong?  
6 A Yes, sir.  
7 Q When were you hired to work aboard the  
8 M.V. Irene?  
9 A Boarded, sir?  
10 Q When were you hired to work on that  
11 vessel?  
12 A In Manila.  
13 Q Okay. Tell us how the job comes to you.  
14 A I went to apply.  
15 Q With whom?  
16 A At the crewing agency.  
17 Q In the Philippines?  
18 A Yes, sir.  
19 Q And how did you get out to the vessel?  
20 A Through the airplane.  
21 Q Okay. Where did you meet up with the  
22 vessel, the Irene? What country?  
23 A In Brazil.  
24 Q Do you recall the date?

Page 8

1 A Yes, sir.  
2 Q Describe the Irene for us -- hold on  
3 before you do. Let me withdraw that.  
4 What was the date that you got on  
5 board the vessel?  
6 A November 17, 2005.  
7 Q Could you just describe briefly the  
8 vessel. What was it towing or pulling or carrying  
9 what kind of cargo, that kind of thing.  
10 A It's a bulk general cargo ship, sir.  
11 Q How many people would be under your  
12 supervision?  
13 A Seven, sir.  
14 Q Who would they be, what titles?  
15 A The third engineer, the electrician, the  
16 fourth engineer, and the three oiler and a wiper --  
17 eight, sir. Eight.  
18 Q When you're hired aboard a vessel, you're  
19 hired under a contract; correct?  
20 A Yes, sir.  
21 Q Who was the contract with?  
22 MR. WOODWARD: Objection.  
23 BY MR. KOTILA:  
24 Q Who was the contract with? You can

Page 9

1 answer the question.  
2 A With a crewing agency.  
3 Q Okay. Aboard a vessel, who do you take  
4 your orders from?  
5 A The chief engineer.  
6 Q Do you see the chief engineer in this  
7 room today?  
8 A Yes, sir.  
9 Q And point him out for us and tell us what  
10 his name is.  
11 A There he is.  
12 Q The gentleman wearing the jeans vest?  
13 A Yes, sir.  
14 Q Do you know his name? Go ahead.  
15 A Adrien, sir.  
16 Q Do you know his last name?  
17 A Dragomir.  
18 MR. KOTILA: Well, for the record,  
19 the witness has identified the defendant, Adrien  
20 Dragomir.  
21 BY MR. KOTILA:  
22 Q When you got on board the vessel  
23 November 17th, 2005, in Brazil, tell us what you did  
24 once you got on board.



4 (Pages 10 to 13)

Page 10

1 A Of course I reported to the chief  
2 engineer.  
3 Q Tell us what some of your duties were.  
4 What were the actions you took when you got on board?  
5 A I'm the one that collects the job order  
6 from him every day in the engine room.  
7 Q Now, you speak Filipino?  
8 A Yes, sir.  
9 Q As a first language?  
10 A Yes, sir.  
11 Q And -- but do you speak English?  
12 A Yes, sir.  
13 Q Did you ever take any training or  
14 education in English?  
15 A Yes, sir.  
16 Q So you took courses of the language --  
17 English language?  
18 A Since the elementary school until  
19 college.  
20 Q So you speak English pretty well?  
21 A Yes, sir.  
22 Q What language did you communicate with  
23 the chief engineer?  
24 A In English.

Page 11

1 Q Okay. Tell us about the oily water  
2 separator aboard the Irene.  
3 MR. CHALOS: Objection.  
4 THE WITNESS: When I first boarded,  
5 I asked the chief engineer if the oily water  
6 separator was working.  
7 BY MR. KOTILA:  
8 Q What did he say?  
9 A He said yes.  
10 Q What did you do next?  
11 A I asked him.  
12 Q Go ahead.  
13 A I said to him, "Did you try it?"  
14 Q And what did he say?  
15 A He said yes.  
16 Q And what happened after that?  
17 A In my particular duty, in my duty at  
18 nighttime, I tried to make it run.  
19 Q Tell us what you did to try to make it  
20 run.  
21 A I looked for the power source, and I  
22 looked at the valves together with the manual. But I  
23 was not able to make it work that evening.  
24 Q Did it ever work when you were on board?

Page 12

1 A The next day.  
2 Q Uh-huh. What's the purpose of the oily  
3 water separator?  
4 A To separate the oil and the water.  
5 Q Does anything go overboard?  
6 A Through the separator, sir?  
7 Q Yes.  
8 A Are we talking about a testing process?  
9 Q Yes, when you test it. How is it  
10 supposed to work?  
11 A We did not open the overboard, only the  
12 testing line.  
13 Q Tell us how you tested it.  
14 A When I tested it, I was with the  
15 electrician. We tried to run it. And so he showed  
16 me where the power sources were, and so we made it  
17 run. It was running, but it did not stop on the  
18 proper reading, ppm.  
19 Q What is the proper ppm?  
20 A 15 ppm automatic stop.  
21 Q When did it stop, though?  
22 A After 15 ppm.  
23 Q About how much after, do you remember?  
24 A About 38, going up. More than 40.

Page 13

1 Q Did any part of the oily water separator  
2 work?  
3 MR. CHALOS: Objection; asked and  
4 answered.  
5 BY MR. KOTILA:  
6 Q Did the alarm work on it?  
7 A Yes, sir.  
8 Q And why is that?  
9 A When it stops, it makes an alarm.  
10 Q Did you see the electrician do anything  
11 with the alarm?  
12 A I didn't see anything.  
13 Q Okay. Did the alarm have to be fixed; do  
14 you know?  
15 A Perhaps not. It was running, the alarm.  
16 Q It was sounding, you mean?  
17 A Yes, sir.  
18 Q Is there an overboard discharge connected  
19 to the oily water separator?  
20 A Yes, there is.  
21 Q Is there a lock on it? Can it be locked?  
22 A Yes, sir.  
23 Q And when you were testing it, was it  
24 locked?

Page 14	Page 16
<p>1 A Yes, sir.</p> <p>2 Q Was it ever unlocked during the time you</p> <p>3 were on the ship?</p> <p>4 A Sometimes.</p> <p>5 Q Was the oily water separator ever used to</p> <p>6 discharge any water into the ocean?</p> <p>7 A No, sir.</p> <p>8 Q Never while you were on board?</p> <p>9 MR. WOODWARD: Objection; leading</p> <p>10 THE WITNESS: No, sir.</p> <p>11 BY MR. KOTILA:</p> <p>12 Q On your trip from Brazil to the United</p> <p>13 States, what if anything was discharged overboard?</p> <p>14 MR. CHALOS: Objection.</p> <p>15 MR. WOODWARD: Objection.</p> <p>16 BY MR. KOTILA:</p> <p>17 Q Answer the question.</p> <p>18 A The bilges and the sludges.</p> <p>19 Q How were these items discharged</p> <p>20 overboard?</p> <p>21 A Going through a magic pipe.</p> <p>22 Q Did you do this?</p> <p>23 A We were the ones that attached it.</p> <p>24 Q Who is "we"?</p>	<p>1 A He told me verbally, direct.</p> <p>2 Q In what language?</p> <p>3 A In English.</p> <p>4 Q How else were you told, if at all?</p> <p>5 MR. WOODWARD: Objection.</p> <p>6 THE WITNESS: He also wrote it in a</p> <p>7 logbook with a red ball pen.</p> <p>8 BY MR. KOTILA:</p> <p>9 Q What did he write in the book?</p> <p>10 A "Out all engine room bilges."</p> <p>11 Q In red ink?</p> <p>12 A Yes, sir.</p> <p>13 Q And what did you take that to mean?</p> <p>14 A Before I read it, he told me in person.</p> <p>15 So I know what it meant.</p> <p>16 Q What did he say in person? Exact words,</p> <p>17 if you can recall.</p> <p>18 A All he told me was "Use the magic pipe</p> <p>19 when the levels of the bilges are high. We should go</p> <p>20 ahead and dispose of it before we arrive in the</p> <p>21 United States."</p> <p>22 Q You knew you were coming to the United</p> <p>23 States as soon as you got on board?</p> <p>24 A When I arrived there, I knew that it was.</p>
Page 15	Page 17
<p>1 A Me and Robert were the ones that attached</p> <p>2 it.</p> <p>3 Q Robert Damasing?</p> <p>4 A Yes, sir.</p> <p>5 Q Why did you do this?</p> <p>6 A We were asked by the chief engineer.</p> <p>7 Q Mr. Dragomir?</p> <p>8 A Yes, sir.</p> <p>9 Q What did he ask you to do?</p> <p>10 A That when the bilges are high and the</p> <p>11 sludge are high, that we should just go ahead and</p> <p>12 pump it overboard through the magic pipe.</p> <p>13 Q Do you recall when is the first time that</p> <p>14 the chief engineer told you to do this?</p> <p>15 A I don't remember exactly what day that</p> <p>16 was.</p> <p>17 Q You got on board November 17th.</p> <p>18 A Yes, sir.</p> <p>19 Q Were you told that by the chief engineer</p> <p>20 a few days later?</p> <p>21 MR. WOODWARD: Objection; leading</p> <p>22 THE WITNESS: Yes, sir.</p> <p>23 BY MR. KOTILA:</p> <p>24 Q How were you told?</p>	<p>1 Q Arrived where? In Brazil?</p> <p>2 A Yes, sir.</p> <p>3 Q How many times was it written in the</p> <p>4 logbook to discharge?</p> <p>5 A Only one time, sir.</p> <p>6 Q Was this a standing order?</p> <p>7 MR. CHALOS: Objection.</p> <p>8 MR. WOODWARD: Leading.</p> <p>9 THE WITNESS: After that he no</p> <p>10 longer wrote it down. But then he would also talk to</p> <p>11 me.</p> <p>12 BY MR. KOTILA:</p> <p>13 Q And say what? What did he say?</p> <p>14 A He would tell me that we should go ahead</p> <p>15 and pump it out.</p> <p>16 Q How many times in the voyage, from</p> <p>17 November 17th through the time you arrived in the</p> <p>18 U.S. in December -- if you recall, how many times did</p> <p>19 he tell you to pump overboard?</p> <p>20 A I don't remember exactly, sir.</p> <p>21 Q More than one?</p> <p>22 A Yes, sir.</p> <p>23 Q More than five times?</p> <p>24 A I don't know, sir.</p>

6 (Pages 18 to 21)

Page 18

1 Q But multiple times?  
 2 MR. CHALOS: Objection.  
 3 THE WITNESS: Yes, sir.  
 4 BY MR. KOTILA:  
 5 Q How did you know what to do?  
 6 A For example, what?  
 7 Q Well, did he tell you to use the magic  
 8 pipe?  
 9 A Yes, sir.  
 10 Q He used those words, "magic pipe?"  
 11 A Yes, sir.  
 12 Q Take a look to your right. That's  
 13 Government's Exhibit No. 2, I believe.  
 14 MR. PHILLIPS: It is.  
 15 BY MR. KOTILA:  
 16 Q Mr. Villano, do you recognize that?  
 17 A Yes, sir.  
 18 Q What do you recognize that piping to be?  
 19 A That's what we would use.  
 20 Q How do you know those -- are they the  
 21 exact items, if you know? You can get up and take a  
 22 look at them, if you want.  
 23 A Yes.  
 24 Q Those are the items, the exact two pipes?

Page 19

1 A Yes, sir.  
 2 Q How can you tell?  
 3 A Because I were the one that put it  
 4 together.  
 5 Q One -- how many times did you put it  
 6 together?  
 7 A Only once.  
 8 Q Did the pipes stay connected to the  
 9 overboard from the tanks the entire time you were  
 10 there, from November to December?  
 11 A Yes. It was taken out before we arrived.  
 12 Q Who took it out?  
 13 A I don't remember who took it out.  
 14 Q Do you know why it was taken out?  
 15 A Yes, sir.  
 16 Q Why?  
 17 A It's against the law.  
 18 Q And you knew that from taking the MARPOL  
 19 courses; right?  
 20 A Yes, sir.  
 21 Q Now, you say you connected the pipe?  
 22 A There were two of us, with Robert.  
 23 Q Walk us through it. What did you  
 24 connect, what to what? What tank to what?

Page 20

1 A When we attached this, there was already  
 2 a flange --  
 3 MR. KOTILA: Hold on a second.  
 4 MR. PHILLIPS: Government 3.  
 5 BY MR. KOTILA:  
 6 Q Let's take a look at Government 3. Do  
 7 you see it down there?  
 8 A Yes, sir.  
 9 Q Do you recognize that item?  
 10 A Yes, sir.  
 11 Q What do you recognize it to be?  
 12 A That's what we connect to the line from  
 13 the bilge pump going to overboard.  
 14 Q And how did the material go from the --  
 15 from the bilge well or bilge tank?  
 16 A We attached it. A flange was attached,  
 17 and then attached to the bilge pump -- after the  
 18 bilge pump.  
 19 Q How did the material, the oily waste, go  
 20 from the tanks out oversea? How did it get pumped?  
 21 A There's a suction from the bilge pump.  
 22 Q Okay. When did you pump, day or night?  
 23 MR. CHALOS: Objection. He never  
 24 said he pumped.

Page 21

1 THE WITNESS: At nighttime.  
 2 BY MR. KOTILA:  
 3 Q Did you do the pumping or did you order  
 4 it to be pumped?  
 5 A I make the order.  
 6 Q Order to whom?  
 7 A The fourth engineer, the third engineer.  
 8 Q When did you order to be pumped, day or  
 9 night?  
 10 MR. CHALOS: Objection.  
 11 BY MR. KOTILA:  
 12 Q You can answer.  
 13 A Two days after we left Brazil.  
 14 Q But at nighttime you ordered the pump?  
 15 MR. CHALOS: Objection.  
 16 THE WITNESS: Yes, sir.  
 17 BY MR. KOTILA:  
 18 Q Why at night?  
 19 A Because in the daytime they would see it.  
 20 Q Who would see it?  
 21 A The authorities.  
 22 Q Now, you arrived in the United States  
 23 around December 4th; do you recall?  
 24 A Yes, sir.

Page 22	Page 24
<p>1 Q And the Coast Guard got on board the 2 vessel?</p> <p>3 A Yes, sir.</p> <p>4 Q And did you overhear the chief engineer 5 speaking with the Coast Guard --</p> <p>6 A Yes, sir.</p> <p>7 Q -- about the oily water separator?</p> <p>8 A Yes.</p> <p>9 Q What did you hear him tell the Coast 10 Guard?</p> <p>11 A On the first day, he said that it was 12 working.</p> <p>13 Q Was that true?</p> <p>14 A No, sir.</p> <p>15 Q When you were discharging or your crew 16 members were discharging overboard, did you ever go 17 back to the chief engineer and tell him this was 18 wrong to do?</p> <p>19 A No, sir.</p> <p>20 Q Do you remember whether you spoke to him 21 about that or not?</p> <p>22 MR. CHALOS: Objection.</p> <p>23 MR. WOODWARD: Objection; leading.</p> <p>24 It's asked and answered.</p>	<p>1 conversation with the chief engineer.</p> <p>2 MR. CHALOS: Objection.</p> <p>3 THE WITNESS: I told him that --</p> <p>4 that it's not correct to be pumping out.</p> <p>5 BY MR. KOTILA:</p> <p>6 Q What did he say to you?</p> <p>7 A There was nothing I could do.</p> <p>8 Q The chief said that?</p> <p>9 A Yes.</p> <p>10 Q Now let's talk about once you reached the 11 United States; you were here. And you're on board 12 December '05; correct?</p> <p>13 Did you meet with a company 14 representative named Christos?</p> <p>15 A Yes, sir.</p> <p>16 Q And who was he?</p> <p>17 A They said that he was the superintendent.</p> <p>18 Q For the company?</p> <p>19 A Yes, sir.</p> <p>20 Q How did he come on board the vessel; do 21 you know?</p> <p>22 A I don't know, because when he arrived, he 23 just called me.</p> <p>24 Q He called you personally?</p>
Page 23	Page 25
<p>1 THE WITNESS: About what?</p> <p>2 BY MR. KOTILA:</p> <p>3 Q About whether it was right or wrong to 4 discharge overboard.</p> <p>5 A All he told me was, "Pump out. Go ahead 6 and pump out." He didn't say any other thing.</p> <p>7 Q Okay. Well, let me remind you, you 8 testified back on January 12th in a prior proceeding 9 in this matter --</p> <p>10 MR. WOODWARD: Objection. You 11 can't rehab your own witness.</p> <p>12 BY MR. KOTILA:</p> <p>13 Q -- and you told the chief engineer 14 this --</p> <p>15 MR. CHALOS: Objection.</p> <p>16 MR. WOODWARD: Can't impeach with 17 prior inconsistent statements.</p> <p>18 BY MR. KOTILA:</p> <p>19 Q You told the chief engineer it was wrong 20 to discharge bilge overboard.</p> <p>21 "Answer: Yes."</p> <p>22 Do you recall that?</p> <p>23 A Now I remember.</p> <p>24 Q Okay. Now you remember. Tell us your</p>	<p>1 A Somebody called me and asked me to go 2 over there, the captain's office.</p> <p>3 Q And did you have a conversation with this 4 Mr. Christos?</p> <p>5 A Yes, sir.</p> <p>6 Q What did he say to you?</p> <p>7 A He asked me -- he asked me if I would 8 tell him -- tell him what happened between Brazil and 9 the United States.</p> <p>10 Q And did you do that?</p> <p>11 A Yes, sir.</p> <p>12 Q And what did he say to you?</p> <p>13 A That we need to take a statement as to 14 what had happened, starting Brazil, going to the 15 United States, and that we would hand it over to the 16 attorneys.</p> <p>17 Q Did you make that statement?</p> <p>18 A Yes, sir.</p> <p>19 Q I'll show you Defense Exhibit 14, 20 four-page statement.</p> <p>21 A Yes, sir.</p> <p>22 Q Do you recognize that statement?</p> <p>23 A Yes, sir.</p> <p>24 Q And you signed it on the back on the last</p>



8 (Pages 26 to 29)

<p style="text-align: right;">Page 26</p> <p>1 page?</p> <p>2 A Yes, sir.</p> <p>3 Q Did you write that statement?</p> <p>4 A Yes. I was the one that made it.</p> <p>5 Q All four pages?</p> <p>6 A The last page was made by the fourth</p> <p>7 engineer.</p> <p>8 Q What's the fourth engineer's name?</p> <p>9 A Bryan Espina.</p> <p>10 Q Okay. And you read it, of course?</p> <p>11 A Yes, sir, because I was the one that made</p> <p>12 the rough draft.</p> <p>13 Q Now, you made this statement. And did</p> <p>14 you have -- did you give it to Christos?</p> <p>15 A Yes, sir.</p> <p>16 Q Now, did Christos talk to you further</p> <p>17 about the incident aboard the boat afterwards?</p> <p>18 A He spoke to me many times.</p> <p>19 Q What did he say afterwards?</p> <p>20 A That we should change the statement.</p> <p>21 Q When was the first time he told you that?</p> <p>22 MR. WOODWARD: Objection.</p> <p>23 THE WITNESS: I don't remember any</p> <p>24 more, sir.</p>	<p style="text-align: right;">Page 28</p> <p>1 BY MR. KOTILA:</p> <p>2 Q That you recall.</p> <p>3 A I'm asking you, who called me?</p> <p>4 Q Were you called by an oiler --</p> <p>5 MR. WOODWARD: Objection; leading.</p> <p>6 BY MR. KOTILA:</p> <p>7 Q -- to go up to the captain's office?</p> <p>8 MR. CHALOS: Objection.</p> <p>9 THE WITNESS: We were already in</p> <p>10 Camden at that time.</p> <p>11 BY MR. KOTILA:</p> <p>12 Q Okay. Were you called to a meeting with</p> <p>13 the owner?</p> <p>14 A Yes, sir.</p> <p>15 Q Tell us about that.</p> <p>16 A That day -- that first day that they</p> <p>17 arrived.</p> <p>18 Q Okay.</p> <p>19 A He said to me we could not change the</p> <p>20 statement. But then on the next day, he said that we</p> <p>21 need to change the statement, because if not, you</p> <p>22 would go to jail.</p> <p>23 Q The first day he said, You can't do</p> <p>24 anything today? Is that what he said?</p>
<p style="text-align: right;">Page 27</p> <p>1 BY MR. KOTILA:</p> <p>2 Q Well, tell us what he told you then.</p> <p>3 A He told me that I should change the</p> <p>4 statement -- we should change the statement, because</p> <p>5 if we don't, we would go to jail.</p> <p>6 Q Christos said this?</p> <p>7 A Yes, sir.</p> <p>8 Q Did he say how you should change the</p> <p>9 statement?</p> <p>10 A Yes, sir.</p> <p>11 Q Tell us.</p> <p>12 A He told us that we just made a mistake or</p> <p>13 we are just afraid.</p> <p>14 Q To say that you were just afraid?</p> <p>15 A Yes, sir.</p> <p>16 Q Now, on around December 5th, you're here</p> <p>17 in the U.S. still. Did there come a time that you</p> <p>18 were called to the captain's office? Do you recall</p> <p>19 that?</p> <p>20 MR. CHALOS: Objection.</p> <p>21 THE WITNESS: December 5.</p> <p>22 BY MR. KOTILA:</p> <p>23 Q What happened that day? Tell us.</p> <p>24 MR. CHALOS: Objection.</p>	<p style="text-align: right;">Page 29</p> <p>1 A Yes, sir.</p> <p>2 Q What did that mean; do you know?</p> <p>3 MR. CHALOS: Objection.</p> <p>4 THE WITNESS: He said, "Whatever it</p> <p>5 is that you have there, just leave it."</p> <p>6 BY MR. KOTILA:</p> <p>7 Q And that's all they said that day?</p> <p>8 A Because they were having a meeting. And</p> <p>9 that's what they told me.</p> <p>10 Q What was the owner's name?</p> <p>11 A Madias.</p> <p>12 Q Madias?</p> <p>13 A Yes.</p> <p>14 Q Now, you say the next day he spoke to you</p> <p>15 again?</p> <p>16 A Yes, sir.</p> <p>17 Q What did he tell you the next day?</p> <p>18 A That he said that, Tell your other</p> <p>19 coworkers that we need to change the statement,</p> <p>20 because if not, all of you will go to jail.</p> <p>21 Q What did you say when he told you that?</p> <p>22 A I told him that, "Sir, what you're asking</p> <p>23 us is complicated."</p> <p>24 Q And what did he say?</p>

Page 30	Page 32
<p>1 A He just said that that -- that's the help 2 that you can provide. That's the help that I could 3 provide. 4 Q Did the owner say anything further, like 5 how to change your statement? 6 MR. CHALOS: Objection. 7 THE WITNESS: "Just tell them that 8 you made a mistake. Just change it, change the 9 statement." There was nothing else. 10 BY MR. KOTILA: 11 Q Did he say to tell the Coast Guard that 12 you felt pressured by the Coast Guard? 13 MR. CHALOS: Objection; leading. 14 THE WITNESS: Christos was the one 15 that said something like that. 16 BY MR. KOTILA: 17 Q All right. Are you sure it's not Madias? 18 MR. WOODWARD: Objection; leading. 19 MR. CHALOS: Objection. 20 THE WITNESS: Yes, sir. 21 BY MR. KOTILA: 22 Q Well, do you remember, or you're not 23 sure? 24 A I'm not sure. I don't remember.</p>	<p>1 you to change your story?" 2 "Answer: No, sir. 3 "Question: Just the owner?" 4 MR. WOODWARD: Hold it, hold it, 5 hold it. 6 MR. KOTILA: You on page 15? 7 MR. TWERSKY: It's the second day, 8 Carl. 9 MR. KOTILA: There were two. You 10 know, let me make this easy, if we could. I have -- 11 let me give it to him, because he can read; right? 12 With the help of the interpreter 13 just read this page quickly. 15 to the top of 16. 14 THE INTERPRETER: You want him to 15 go to the next page? 16 BY MR. KOTILA: 17 Q Just the top of Page 16, please. 18 A Yes. Yes. 19 Q Okay. Mr. Villano, do you recall giving 20 that testimony? 21 A Yes. 22 Q So what did the owner tell you to say? 23 MR. CHALOS: Objection. 24 THE WITNESS: Just like what he</p>
Page 31	Page 33
<p>1 Q Let me see if I can refresh your 2 recollection. 3 MR. CHALOS: You can't rehabilitate 4 your own witness. 5 MR. KOTILA: Sure you can. Refresh 6 his recollection. 7 MR. CHALOS: Well, he says he 8 doesn't remember. 9 MR. KOTILA: That's why I can 10 refresh his recollection. 11 MR. CHALOS: But he didn't say 12 that. He said it was Christos. 13 BY MR. KOTILA: 14 Q Do you recall also testifying in a prior 15 proceeding in this matter on February 2nd, 2006 -- 16 correct? 17 A Yes. 18 Q Do you recall the question -- 19 MR. WOODWARD: Could we have a 20 page, please. 21 BY MR. KOTILA: 22 Q Page 15, on February 6th. All right. 23 Let's -- I'm going to start at the top. 24 "Question: Did the captain ever ask</p>	<p>1 said: To change the statement, because you were just 2 pressured and afraid of the Coast Guard, and you're 3 afraid. 4 BY MR. KOTILA: 5 Q Did -- 6 MR. WOODWARD: Objection. Go 7 ahead. 8 BY MR. KOTILA: 9 Q Did Mr. Madias -- when you were leaving 10 the boat to stay in the United States, did 11 Mr. Christos say to tell the truth? 12 A Yes, sir. 13 Q Did Mr. Madias say that too? 14 A No, sir. 15 Q He never did? 16 A No, sir. 17 Q The engine logbook you described 18 earlier -- 19 MR. WOODWARD: Objection; no 20 foundation. 21 MR. CHALOS: He never described the 22 book. Wrong guy. 23 MR. KOTILA: Huh? 24 MR. CHALOS: Wrong guy. He never</p>

10 (Pages 34 to 37)

Page 34	Page 36
<p>1 described the book.</p> <p>2 BY MR. KOTILA:</p> <p>3 Q When you received orders from the chief</p> <p>4 engineer to pump the bilges, did you receive that</p> <p>5 order in writing too?</p> <p>6 MR. CHALOS: Objection.</p> <p>7 MR. KOTILA: Sure he did.</p> <p>8 THE WITNESS: Sometimes not.</p> <p>9 BY MR. KOTILA:</p> <p>10 Q But you did receive that one time?</p> <p>11 A Yes, sir.</p> <p>12 MR. CHALOS: Objection.</p> <p>13 BY MR. KOTILA:</p> <p>14 Q And what kind of -- how in writing? What</p> <p>15 kind of book?</p> <p>16 A Engine logbook.</p> <p>17 Q All right. When was the last time you</p> <p>18 saw that engine logbook?</p> <p>19 A Before we got off the ship, I saw it.</p> <p>20 Q Where did you see it?</p> <p>21 A Close to the door of the chief engineer.</p> <p>22 Q Mr. Dragomir?</p> <p>23 A Yes.</p> <p>24 Q Now, that engine logbook, that's not the</p>	<p>1 sludge tank -- so that we could reach -- so that we</p> <p>2 could reach the declared level.</p> <p>3 Q Declared where?</p> <p>4 A On the Oil Record Book of his.</p> <p>5 Q This record book?</p> <p>6 A I don't know.</p> <p>7 Q Who ordered you to do that?</p> <p>8 A The chief engineer.</p> <p>9 Q Is that a proper practice, pursuant to</p> <p>10 your training and education in MARPOL?</p> <p>11 MR. CHALOS: Objection.</p> <p>12 THE WITNESS: No, sir.</p> <p>13 BY MR. KOTILA:</p> <p>14 Q Why not?</p> <p>15 A That's against the law.</p> <p>16 Q I have no further questions -- hold on.</p> <p>17 When did you do this? When did you</p> <p>18 give the order to fill those tanks?</p> <p>19 MR. CHALOS: Objection; no</p> <p>20 foundation. He never gave the order. That was</p> <p>21 never --</p> <p>22 MR. PHILLIPS: He testified that</p> <p>23 the chief engineer --</p> <p>24 BY MR. KOTILA:</p>
Page 35	Page 37
<p>1 same as this particular book?</p> <p>2 A No.</p> <p>3 Q Are you familiar with what is</p> <p>4 Government's Exhibit No. 1?</p> <p>5 A Oil Record Book, sir.</p> <p>6 Q How are you familiar with this book?</p> <p>7 A I've seen it in other ships as well.</p> <p>8 Q Have you seen it on this ship?</p> <p>9 A No, I didn't see it.</p> <p>10 Q Okay. So you did see this book.</p> <p>11 (Discussion held off the</p> <p>12 stenographic record.)</p> <p>13 BY MR. KOTILA:</p> <p>14 Q Let me ask you a question: Before you</p> <p>15 got to the United States, did you receive an order</p> <p>16 from the chief engineer to backfill the wells to</p> <p>17 bring them up to a certain level? Do you recall?</p> <p>18 A Could you repeat that.</p> <p>19 Q Did you put water, saltwater and</p> <p>20 freshwater, in wells? In tanks or wells?</p> <p>21 A Yes, sir.</p> <p>22 Q Tell us about that.</p> <p>23 A We needed to put some water -- seawater</p> <p>24 and fresh for the bilge tank, freshwater for the</p>	<p>1 Q What's your answer? Did you give the</p> <p>2 order to fill the tanks or did you fill the tanks?</p> <p>3 MR. CHALOS: Objection; leading.</p> <p>4 THE WITNESS: We were asked to do</p> <p>5 that, and then we did it.</p> <p>6 BY MR. KOTILA:</p> <p>7 Q You physically did it?</p> <p>8 A Yes, sir.</p> <p>9 Q How did you do it?</p> <p>10 A In the bilge tank, we used a bilge pump.</p> <p>11 In the sludge tank, we used the freshwater hydrofoil</p> <p>12 tank -- hydrophoric tank.</p> <p>13 Q So the bilge -- the suction tank pumped</p> <p>14 from the bilge tank came from the ocean? That's the</p> <p>15 saltwater?</p> <p>16 A Yes, sir.</p> <p>17 Q When did you do this? When on the</p> <p>18 vessel? Before you got to the United States or in</p> <p>19 the United States?</p> <p>20 A Before we arrived.</p> <p>21 Q How far before you arrived?</p> <p>22 A I don't remember exactly what the</p> <p>23 distance was.</p> <p>24 Q A day before you got to the United</p>

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11 (Pages 38 to 41)

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1 States? Two days?  
 2 A I believe it was a day.  
 3 Q A day before you reached Delaware?  
 4 A Yes, sir.  
 5 MR. KOTILA: Thank you.  
 6 (Discussion held off the record.)  
 7 CROSS-EXAMINATION  
 8 BY MR. CHALOS:  
 9 Q Mr. Villano, you told us about some  
 10 discussions you had with two different men, one man  
 11 named Madias and one man named Christos; right?  
 12 A Yes, sir.  
 13 Q And then you told Mr. Kotila that you  
 14 thought Mr. Madias was the owner of the ship; right?  
 15 A Yes, sir.  
 16 Q Now, look me in the eyes. You don't know  
 17 that, do you?  
 18 A That's what they said.  
 19 Q So my question to you is, you don't know  
 20 what Mr. Madias' role was with the ships, do you?  
 21 A He told me that he was the owner.  
 22 Q He told you that?  
 23 A Yes, sir.  
 24 Q And when he told you that, who was

Page 40

1 A But the question was not phrased that  
 2 way, you know.  
 3 Q Well, I do know; that's why I'm trying to  
 4 find out.  
 5 The question of Mr. Kotila was how  
 6 did you know he was the owner? And your answer to  
 7 him was, "They told me."  
 8 A He told me.  
 9 Q You didn't tell Mr. Kotila "he" told you.  
 10 You told Mr. Kotila, "they told me."  
 11 Who was "they"?  
 12 A The whole engine room said that.  
 13 Q So the whole engine room said that?  
 14 A The group from the engine room.  
 15 Q Okay. Now, you also told me just a  
 16 second ago that when you met with Mr. Madias, that  
 17 the chief engineer was present.  
 18 A Yes, sir.  
 19 Q Okay. Now, that's not what you told the  
 20 Grand Jury; right?  
 21 A The first day that I said, I said that he  
 22 was there. The next day he wasn't there. That's  
 23 what I said.  
 24 Q Let's talk about your Grand Jury. Okay?

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1 present?  
 2 A He himself and the wife.  
 3 Q So nobody else was present?  
 4 A We were at the table.  
 5 Q My question is nobody else from the crew  
 6 was present?  
 7 A The chief engineer was there.  
 8 Q Mr. Dragomir was there?  
 9 A Yes, sir.  
 10 Q Now, Mr. Christos, you don't know who  
 11 Mr. Christos was, do you?  
 12 A They told me that he was the  
 13 superintendent.  
 14 Q Okay. Well, wait a minute. When you say  
 15 "they told me," who is that?  
 16 A He himself told me.  
 17 Q Okay. Now, before, when Mr. Kotila asked  
 18 you about who Madias was, your answer was "they told  
 19 me he was the owner."  
 20 A That's what he said.  
 21 Q Wait a minute.  
 22 A And he himself said that.  
 23 Q Well, that's not your answer to  
 24 Mr. Kotila, was it?

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1 Before you went to the Grand Jury,  
 2 the Government made a promise to you; right? That if  
 3 you'd cooperate with their investigation that you  
 4 wouldn't get in trouble for anything that you did  
 5 that was wrong.  
 6 A From what I know and the way I understood  
 7 it, nothing will happen to us if we do not tell a  
 8 lie.  
 9 Q Okay. But you knew that at the time the  
 10 Government made that promise to you you had done  
 11 something wrong.  
 12 A All I'm telling you here is the truth.  
 13 Q Okay. Listen to my question, please.  
 14 At the time you made that agreement  
 15 with the Government that you would cooperate in their  
 16 investigation, their promise to you was that you  
 17 would not get into trouble for anything that you did  
 18 wrong so long as you agreed to cooperate with them;  
 19 right?  
 20 A Yes.  
 21 Q And then you went and you testified  
 22 before the Grand Jury on January the 12th; right?  
 23 A Yes, sir.  
 24 Q And then at the end of the day, after the



12 (Pages 42 to 45)

Page 42

1 Grand Jury, after the Government was finished asking  
2 you questions, you took it upon yourself to go find  
3 the prosecutors; right?

4 A Yes, sir.

5 Q And you went running to the prosecutors  
6 because you wanted to tell them something else that  
7 you thought would be helpful for their case; right?

8 A Yes, sir.

9 Q And when you went running to the  
10 prosecutors, the information that you told them about  
11 was what we're talking about now, your discussions  
12 with Mr. Madias; right?

13 A Yes, sir.

14 Q And now, they asked you about if anyone  
15 asked you to lie during your Grand Jury testimony;  
16 right?

17 A Yes, sir.

18 Q And you never said anything in the first  
19 session about Mr. Madias?

20 A That was not asked as a question.

21 Q It wasn't asked? Well, let's take a  
22 look.

23 Do you remember, there was a series  
24 of questions about whether anyone told you what to

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1 everything you know about all your conversations with  
2 the owner -- who you thought was the owner; right?

3 A Yes, sir.

4 Q And you did that; right?

5 A Yes, sir.

6 Q And then Mr. Falgowski asked you to come  
7 to the Grand Jury for a second time; right?

8 A Yes, sir.

9 Q And at that second session, Mr. Falgowski  
10 asked you again about your discussions with  
11 Mr. Madias; right?

12 A Yes, sir.

13 Q Okay. And take a look now -- and I'll  
14 make a representation this is a transcript of your  
15 February 2nd Grand Jury appearance, and I'm asking  
16 you to show me where you told Mr. Falgowski or the  
17 Grand Jury that the chief engineer was present during  
18 these discussions.

19 A It was asked to me that question the  
20 second day, the second time, not the first day.

21 Q That's the second day. That's a  
22 transcript of the second day.

23 A What I meant was that time when the chief  
24 engineer -- the first day when the owner arrived, but

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1 tell the Coast Guard; right?

2 A Could you repeat that.

3 Q Yeah. There was a series of questions  
4 about whether anybody ever asked you or told you what  
5 to say to the Coast Guard.

6 A And who asked me that question?

7 Q The prosecutors. Do you remember that?

8 A I don't remember that anymore.

9 Q Okay. So as you sit here today, you  
10 don't remember what you told the Grand Jury on  
11 January 12th, 2006?

12 A Some of it I don't.

13 Q Okay. Now, after you finished your  
14 testimony before the Grand Jury on January 12th and  
15 you went to find Mr. Falgowski, you told him about  
16 discussions you had with Captain Madias; right?

17 A Yes, sir.

18 Q And he asked you, Mr. Falgowski asked  
19 you --

20 MR. KOTILA: Objection; calls for  
21 speculation.

22 MR. CHALOS: Party statement.

23 BY MR. CHALOS:

24 Q Mr. Falgowski asked you to tell him

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1 the next day, the chief engineer was not there  
2 anymore. And so I have not told it in this  
3 particular situation.

4 Q So let me see if I got this right.

5 The only time the chief engineer  
6 was present was the first day, when Mr. Madias told  
7 you there's nothing you can do about your statement;  
8 right?

9 A Yes.

10 Q So it's fair to say that all this  
11 testimony that you've given us about Mr. Madias  
12 telling you to change your statement occurred when  
13 nobody else was present?

14 A Yes. Yes, sir.

15 Q So it was just you and him?

16 A Yes, sir.

17 Q So there's nobody else that can confirm  
18 what you're saying as being true, is there?

19 A Only the two of us.

20 MR. CHALOS: Okay. Let's take a  
21 break. It's a good time for lunch.

22 THE VIDEOGRAPHER: Off the record  
23 at 1:02.

24 (Luncheon recess from 1:02 p.m. to

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13 (Pages 46 to 49)

Page 46

1 2:14 p.m.)  
 2 (Documents marked CSME Exhibits 17  
 3 through 22 for identification.)  
 4 THE VIDEOGRAPHER: We are on the  
 5 record at 2:14.  
 6 BY MR. CHALOS:  
 7 Q Good afternoon, Mr. Villano.  
 8 A Good afternoon, sir.  
 9 Q Did you have an opportunity to have  
 10 lunch?  
 11 A Yes, sir.  
 12 Q During lunch, did you speak with anybody  
 13 about your testimony here today?  
 14 A No, sir.  
 15 Q Did you speak with Roberto Damasing  
 16 during the break?  
 17 A Yes, sir.  
 18 Q And Mr. Damasing is going to be the next  
 19 witness to testify; right?  
 20 A Yes, sir.  
 21 Q Let's talk a little bit about you and  
 22 your background and history before you were hired to  
 23 join the Irene E.M.  
 24 I'm going to show you what we've

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1 A Yes, sir.  
 2 Q Okay. Now, take a look at the second  
 3 page.  
 4 Now, that document bears your  
 5 signature on the bottom left-hand side; right?  
 6 A Yes, sir.  
 7 Q Okay. And this document, you made a  
 8 declaration that you received and you reviewed the  
 9 environmental protection policy of the principal of  
 10 the Irene E.M. vessel; right?  
 11 A Yes, sir.  
 12 Q Now, before you signed this document and  
 13 made that declaration, you reviewed that  
 14 environmental protection policy, did you not?  
 15 A Yes, sir.  
 16 Q Okay. And you made a declaration that  
 17 during your time on board the ship, that you would  
 18 follow that policy and uphold the laws, did you not?  
 19 A Yes, sir.  
 20 Q And that's what you told the owner of the  
 21 ship and the managers of the ship you were going to  
 22 do if they hired you as second engineer; right?  
 23 A They didn't say anything of that sort.  
 24 This is just from the crewing company.

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1 previously marked as CSME Defendants' Deposition  
 2 Exhibit No. 17. For the record, I'll make a  
 3 representation that the exhibit is five pages.  
 4 Now, Mr. Villano, earlier today  
 5 Mr. Kotila asked you some questions about the  
 6 employment contract you signed. Do you remember  
 7 that?  
 8 A Yes, sir.  
 9 Q And is Exhibit 17 a copy of the  
 10 employment contract and its attachments?  
 11 A Could you repeat that.  
 12 Q That's the papers that you signed before  
 13 you joined the ship; right?  
 14 A Yes, sir.  
 15 Q Okay. Now, when you signed the contract  
 16 in the Philippines on or about November the 11th of  
 17 2005 -- right?  
 18 A Yes, sir.  
 19 Q And the deal was you were going to work  
 20 on board the Irene E.M. for nine months --  
 21 A Yes, sir.  
 22 Q -- plus a possible additional three  
 23 months, upon mutual consent of you and your crewing  
 24 agent; right?

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1 Q Okay. But the crewing company gave you  
 2 the principles of the environmental protection  
 3 policy, did they not?  
 4 A Yes, sir.  
 5 Q Okay. So the deal was that if you were  
 6 going to be hired to work on board this ship, you  
 7 knew that you were expected to follow the company's  
 8 environmental protection policy and to uphold the  
 9 laws; right?  
 10 A Yes, sir.  
 11 MR. CHALOS: I'll take that back.  
 12 Thank you, Mr. Villano.  
 13 THE WITNESS: Yes, sir.  
 14 MR. CHALOS: If I haven't done it  
 15 already, I'd like to move Defendants' Exhibit No. 17  
 16 into evidence.  
 17 MR. KOTILA: No objection.  
 18 (Document marked CSME Exhibit 17  
 19 moved into evidence.)  
 20 BY MR. CHALOS:  
 21 Q Mr. Villano, I'm going to show you what  
 22 we've premarked as Defense's CSME -- Defendant CSME  
 23 Exhibit No. 18. And for the record, I'll make a  
 24 representation it's a three-page document.

14 (Pages 50 to 53)

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1 Now, Mr. Villano, that exhibit I  
2 just showed you is what?  
3 A Seaman's book, sir.  
4 Q It's a photocopy of your seaman's book;  
5 right?  
6 A Yes, sir.  
7 Q And also it's a photocopy of your  
8 passport; right?  
9 A Yes, sir.  
10 Q Okay. And you are a Philippine national,  
11 correct?  
12 A Yes, sir.  
13 MR. CHALOS: Can I move into  
14 evidence Defendants' Exhibit 18.  
15 MR. KOTILA: No objection.  
16 (Document marked CSME Exhibit 18  
17 moved into evidence.)  
18 BY MR. CHALOS:  
19 Q Now, today when Mr. Kotila was asking you  
20 some questions, as you're doing while I'm asking you  
21 questions, you're using the assistance of our  
22 interpreter.  
23 A Yes, sir.  
24 Q And the reason why you're doing that is

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1 the Government, on board the vessel and subsequently,  
2 sometimes with and sometimes without the assistance  
3 of an interpreter. And I think it's going to be  
4 important for the jury to see exactly how good or how  
5 bad his command of the English language is.  
6 MR. TWERSKY: Let's go off the  
7 record.  
8 THE VIDEOGRAPHER: Off the record  
9 at 2:23.  
10 (Brief recess.)  
11 THE VIDEOGRAPHER: We are on the  
12 record at 2:33.  
13 BY MR. CHALOS:  
14 Q Okay. Mr. Villano, I'm going to show you  
15 what we've previously marked as CSME Defendants'  
16 Exhibit No. 19. For the record, I'll make a  
17 representation it's a three-page document, and I'll  
18 ask you to take a look at those.  
19 And my first question to you,  
20 Mr. Villano, is, the first page of Exhibit 19 is a  
21 copy of your license; correct?  
22 A Yes, sir, is.  
23 Q And that's your license to be a second  
24 engineer; right?

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1 because English is your second language; right?  
2 A Yes, sir.  
3 Q Your first language is a language called  
4 Ilongo, I-L-O-N-G-O?  
5 A Yes, sir.  
6 Q And then you also speak a second language  
7 called Tagalog; right?  
8 A Yes, sir.  
9 Q And you're very fortunate, you're  
10 multilingual and can also speak some English;  
11 correct?  
12 A Yes, sir.  
13 Q But you don't feel comfortable conducting  
14 an official meeting like this solely in English, do  
15 you?  
16 A I'm comfortable enough.  
17 Q Okay. I'd like you to do that then.  
18 A Okay. I'll try it.  
19 MR. TWERSKY: On advice of his  
20 counsel, I'm going to advise him not to do that,  
21 because I'm not comfortable with him in English.  
22 MR. CHALOS: I think we're going to  
23 have to call the judge on this. Because we have an  
24 issue here where he was interviewed several times by

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1 A Yes, sir.  
2 Q Who is that issued by?  
3 A PRC.  
4 Q What is the PRC?  
5 A Philippine Commission.  
6 Q That's the Philippine Regulatory  
7 Commission; correct?  
8 A Yes.  
9 Q And the next two pages are endorsements  
10 to your Philippine license from the ship's flag  
11 state; right?  
12 A Yes, sir.  
13 Q So at the time that you boarded the Irene  
14 E.M. in Brazil, you held a license from the  
15 Government of the Philippines and an endorsed second  
16 engineer's license from the flag state administration  
17 for the vessel; right?  
18 A Yes, sir.  
19 MR. CHALOS: I'd like to move that  
20 into evidence.  
21 MR. KOTILA: Objection.  
22 (Document marked CSME Exhibit 19  
23 admitted into evidence.).  
24 BY MR. CHALOS:

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15 (Pages 54 to 57)

Page 54	Page 56
<p>1 Q Now, I'd like to show you what we've</p> <p>2 marked as Exhibit 20. It's an exhibit of several</p> <p>3 pages. Just take a look.</p> <p>4 Now, Mr. Villano, my first question</p> <p>5 to you is, do all the pages in that exhibit -- strike</p> <p>6 that.</p> <p>7 Are all the pages copies of</p> <p>8 certificates you've received for various training</p> <p>9 you've gone to over the years?</p> <p>10 A Yes, sir.</p> <p>11 Q And you've been sailing since 1991?</p> <p>12 A Yes, sir.</p> <p>13 Q And you've been on board at least 10</p> <p>14 other ships besides the Irene E.M.?</p> <p>15 A Yes, sir.</p> <p>16 Q Okay. Now, Mr. Villano, before we took a</p> <p>17 break, I asked you if you would be comfortable in</p> <p>18 proceeding today in English. And you've had an</p> <p>19 opportunity to meet with your lawyer to discuss his</p> <p>20 objection; right?</p> <p>21 A Object?</p> <p>22 Q Well, you've had an opportunity to</p> <p>23 discuss my request with your lawyer; right?</p> <p>24 A Yeah. We talked about it, but it's not</p>	<p>1 available to you?</p> <p>2 A No, sir.</p> <p>3 Q Were you advised that you had the right</p> <p>4 to have an attorney present during that meeting?</p> <p>5 A No, sir.</p> <p>6 Q Okay. Would you have preferred if an</p> <p>7 interpreter was present for that meeting?</p> <p>8 A Yes, sir.</p> <p>9 Q Okay. Take a look again at what we just</p> <p>10 marked as Exhibit 20, Mr. Villano, in front of you,</p> <p>11 and --</p> <p>12 Well, before we get into the</p> <p>13 substance, I'd like to move Exhibit 20 into evidence</p> <p>14 as a copy of training certificates.</p> <p>15 MR. KOTILA: No objection.</p> <p>16 (Document marked CSME Exhibit 20</p> <p>17 moved into evidence.)</p> <p>18 BY MR. CHALOS:</p> <p>19 Q Okay. Now take a look, Mr. Villano, at</p> <p>20 the first page now. It talks about a MARPOL training</p> <p>21 course from November 24th and November 25th of 199</p> <p>22 in Manila, the Philippines.</p> <p>23 A 1999?</p> <p>24 Q I don't think so, Mr. Villano. Are we</p>
Page 55	Page 57
<p>1 because he objected --</p> <p>2 MR. TWERSKY: I'm going to advise</p> <p>3 my client not to discuss anything that we discussed.</p> <p>4 That's privileged and confidential between us.</p> <p>5 You can answer "yes" or "no" to</p> <p>6 whether we had a conversation. But I'm going to</p> <p>7 advise you not to disclose the contents of our</p> <p>8 conversation, because then they'll no longer be</p> <p>9 confidential.</p> <p>10 THE WITNESS: Yes, sir.</p> <p>11 BY MR. CHALOS:</p> <p>12 Q Okay. Now, do you have a preference to</p> <p>13 continue either in English or with the assistance of</p> <p>14 the interpreter?</p> <p>15 A With an interpreter.</p> <p>16 Q Okay. Now, you also had official</p> <p>17 meetings on board the vessel where the Coast Guard</p> <p>18 called you and the rest of the crew into the mess</p> <p>19 room; right?</p> <p>20 A Yes, sir.</p> <p>21 Q And did the Coast Guard have an</p> <p>22 interpreter present with them?</p> <p>23 A No, sir.</p> <p>24 Q Did the Coast Guard make an interpreter</p>	<p>1 looking at the same page?</p> <p>2 This number here. Maybe you need</p> <p>3 your glasses.</p> <p>4 A Oh, yeah. Yes, sir.</p> <p>5 Q 1997; right?</p> <p>6 A Yes, sir.</p> <p>7 Q And you attended that training?</p> <p>8 A Yes.</p> <p>9 Q And did you attend another training in</p> <p>10 1999?</p> <p>11 A I don't remember anymore.</p> <p>12 Q Okay. Turn to the next page,</p> <p>13 Mr. Villano. And there's another certificate from</p> <p>14 the Philippines Seafarer's Training Center --</p> <p>15 Seafarer's Training Center, correct -- and it says</p> <p>16 Certificate of Completion for another MARPOL class,</p> <p>17 three-day class, April 26th, 27th and 28th, 2004.</p> <p>18 And my question to you is, you did</p> <p>19 attend that seminar, did you not?</p> <p>20 A Yes, sir.</p> <p>21 Q And in fact, this Certificate of</p> <p>22 Completion has your photograph in the bottom?</p> <p>23 A Yes, sir.</p> <p>24 Q Okay. Now, turn to the next page, if you</p>



16 (Pages 58 to 61)

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1 will. And this is a Certificate of Completion  
 2 from -- it looks like the Excellence and Competency  
 3 Training Center in Sampaloc, Manila. And this  
 4 relates to a training course in maritime law for  
 5 ships officers that was conducted from September 19th  
 6 through September 24th, 2005.  
 7 A Maritime law, sir?  
 8 Q Yeah, the next page.  
 9 And you attended a week-long  
 10 five-day seminar on maritime law for ships officers;  
 11 right?  
 12 A Yes.  
 13 Q And that Certificate of Completion also  
 14 has your picture on the bottom; right?  
 15 A Yes, sir.  
 16 Q Now, take a look at the next page. This  
 17 is a Certificate of Attendance for-in house training  
 18 issued by Bright Maritime Corporation. Do you see  
 19 that?  
 20 Let me see, Mr. Villano. Let me  
 21 see if I can help you -- correct, that's the one.  
 22 And it says that you received a  
 23 certificate for having attended a seminar on the ISM  
 24 code and having been briefed on the policies and

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1 safety management system of Chian Spirit Maritime  
 2 Enterprises, Inc. from November 14th through  
 3 November 15th at Pasig City in the Philippines.  
 4 A Yes, sir.  
 5 Q And you attended a two-day seminar in the  
 6 Philippines from November 14th and 15th, 2005, at  
 7 your crewing agent; correct?  
 8 A Yes, sir.  
 9 Q And you discussed Chian Spirit Maritime  
 10 Enterprises safety management system; right?  
 11 A Yes, sir.  
 12 Q And Chian Spirit was the manager or the  
 13 operator of the Irene E.M.; correct?  
 14 A Yes, sir.  
 15 Q So you went to special training to learn  
 16 the company's policies before you got on board their  
 17 ship; right?  
 18 A Yes, sir.  
 19 Q And in fact, you were given a copy of the  
 20 Chian Spirit safety management system, and  
 21 specifically the environmental protection policy;  
 22 right?  
 23 A Yes, sir.  
 24 Q I'm going to show you what we previously

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1 marked as Exhibit 7. And I'll take Exhibit 20 from  
 2 you.  
 3 And Mr. Villano, Exhibit 7 is a  
 4 copy of the Chian Spirit environmental protection  
 5 policy that you studied before going on board the  
 6 Irene E.M., is it not?  
 7 A Yes, sir.  
 8 Q A copy of that, Mr. Villano, was readily  
 9 available and displayed on board the ship, was it  
 10 not?  
 11 A Yes, sir.  
 12 Q There was a copy of the company's  
 13 environmental protection policy posted in the ship's  
 14 office, was there not?  
 15 A I didn't notice it.  
 16 Q Okay. There was a copy that you did  
 17 notice in the mess room?  
 18 A Yes, sir.  
 19 Q And there was another copy in the  
 20 hallway?  
 21 A That I don't remember.  
 22 Q And you know that there was one in the  
 23 engine room on the plywood bulletin board; right?  
 24 A That I could not remember.

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1 Q It's not that you don't know; it's just  
 2 that you can't remember as you sit here today; right?  
 3 A I don't remember.  
 4 Q Okay. Is there anything that would  
 5 refresh your recollection, Mr. Villano, about what  
 6 was on that bulletin board in the engine room?  
 7 A I don't remember of anything.  
 8 Q Now, Mr. Villano, when you got on board  
 9 the ship -- or let me rephrase my question.  
 10 Before you got on board the ship,  
 11 you knew that the owner of the ship and the manager  
 12 of the ship were serious about environmental  
 13 protection.  
 14 A I'm not really sure, sir.  
 15 Q Well, you know that they were serious  
 16 enough to make sure that you went for training on  
 17 their policies and procedures?  
 18 A That's a requirement, sir.  
 19 Q And it was a requirement that you had to  
 20 complete; otherwise, you couldn't work on board the  
 21 ship, is it not?  
 22 A Yes, sir.  
 23 Q And the company was also serious about  
 24 its crew, and they wanted to make sure that you were

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17 (Pages 62 to 65)

Page 62	Page 64
<p>1 fit for the service before you got on board your 2 ship, did they not?</p> <p>3 A Yes.</p> <p>4 Q And they asked you to go and undergo 5 various tests to make sure you were physically and 6 mentally capable of doing the job, did they not?</p> <p>7 A Yes, sir.</p> <p>8 Q And I'm going to show you what we've 9 marked as CSME Defendants' Exhibit No. 21. And those 10 were the records relating to those examinations and 11 tests you underwent before getting on board the ship?</p> <p>12 A Yes, sir.</p> <p>13 MR. CHALOS: I'd like to move 14 Defendants' Exhibit 21 into evidence.</p> <p>15 MR. KOTILA: No objection. 16 (Document marked CSME Exhibit 21 17 admitted into evidence.)</p> <p>18 BY MR. CHALOS:</p> <p>19 Q Now, when you came on board the ship, 20 Mr. Villano, you checked in with the chief engineer, 21 did you not?</p> <p>22 A Yes, sir.</p> <p>23 Q And the chief engineer told you that you 24 had a certain shift or a certain watch that would be</p>	<p>1 Q And he's the guy you spoke to during the 2 lunch break today; right?</p> <p>3 A Yes, sir.</p> <p>4 Q You joined the ship in Brazil; correct?</p> <p>5 A Yes, sir.</p> <p>6 Q Earlier today you told Mr. Kotila it was 7 about November 17th that you joined the ship?</p> <p>8 A Yes, sir. Yes, sir.</p> <p>9 Q And that was in a place called Fortaleza, 10 Brazil; correct?</p> <p>11 A Yes, sir.</p> <p>12 Q And after you joined the vessel in 13 Fortaleza, did the vessel make any other stops in 14 Brazil?</p> <p>15 A Yes, sir.</p> <p>16 Q Where did it go?</p> <p>17 A I don't remember exactly what port that 18 was. It was a loading port.</p> <p>19 Q How long was the vessel at the loading 20 port?</p> <p>21 A I don't exactly remember how many days it 22 was.</p> <p>23 Q More than one day?</p> <p>24 A Yes, sir.</p>
Page 63	Page 65
<p>1 your working hours on board the Irene E.M., did you 2 not?</p> <p>3 A Yes, sir.</p> <p>4 Q And the watch that you stood or the hours 5 that you worked were 4:00 to 8:00, both during the 6 day and at night?</p> <p>7 A Yes, sir.</p> <p>8 Q So in military time, you would work from 9 0400 to 0800; and then again from 1600 hours to 2000 10 hours; right?</p> <p>11 A Yes, sir.</p> <p>12 Q And when you were working those hours, 13 you were the duty engineer, were you not?</p> <p>14 A Yes, sir.</p> <p>15 Q And not only were you the duty engineer, 16 but you had one individual that reported directly to 17 you?</p> <p>18 A Yes, sir.</p> <p>19 Q And that was an oiler named Roberto 20 Damasing?</p> <p>21 A Yes, sir.</p> <p>22 Q And during the night shift, he was the 23 only other guy in the engine room with you mostly?</p> <p>24 A Yes, sir.</p>	<p>1 Q More than two days?</p> <p>2 A All I remember was we left on the 21st.</p> <p>3 Q Mr. Villano, the ship actually made two 4 stops in Brazil after you got on board, did it not?</p> <p>5 A I arrived in Fortaleza and then we 6 loaded, and I don't remember what that port was.</p> <p>7 Q Recife?</p> <p>8 A I don't remember. I have no memory of 9 that.</p> <p>10 Q Well, Mr. Villano, that really leads me 11 to my next point.</p> <p>12 As the third engineer, you don't 13 have any responsibility for --</p> <p>14 MR. KOTILA: Objection. He's the 15 second engineer.</p> <p>16 MR. CHALOS: Okay. Let me withdraw 17 my thing. I got distracted for a second. Withdraw 18 my question and start again.</p> <p>19 BY MR. CHALOS:</p> <p>20 Q As the second engineer, Mr. Villano, you 21 don't have any responsibility for the navigation of 22 the vessel, do you?</p> <p>23 A Yes, sir.</p> <p>24 Q Meaning -- "yes, sir" meaning you don't</p>

18 (Pages 66 to 69)

Page 66	Page 68
<p>1 have any responsibility for the navigation?</p> <p>2 A In navigation?</p> <p>3 Q Navigation is my question.</p> <p>4 A The bridge system, no.</p> <p>5 Q And you worked in the engine room?</p> <p>6 A Yes, sir.</p> <p>7 Q So you don't really know where the ship</p> <p>8 is when you're doing things in the engine room, do</p> <p>9 you?</p> <p>10 A Sometimes they would call us -- call it</p> <p>11 out to us where the location is.</p> <p>12 Q Okay. But if they don't call out the</p> <p>13 location to you from the bridge, you wouldn't be able</p> <p>14 to identify your latitude and longitude, would you?</p> <p>15 A Yes, sir.</p> <p>16 Q "Yes, sir" meaning you don't know your</p> <p>17 latitude and longitude?</p> <p>18 A Yes, sir.</p> <p>19 Q Okay. Mr. Villano, what do you mean by</p> <p>20 "yes, sir"? You don't know, do you?</p> <p>21 A I don't know.</p> <p>22 Q Okay. That's what I was trying to</p> <p>23 clarify.</p> <p>24 We just looked at your certificates</p>	<p>1 that you were supposed to report it to the captain;</p> <p>2 right?</p> <p>3 A Yes, sir.</p> <p>4 Q Now, in this situation, you never told</p> <p>5 the captain what you were doing in the engine room,</p> <p>6 did you?</p> <p>7 A Yes, sir.</p> <p>8 Q When you say "yes, sir," meaning no, you</p> <p>9 never told the captain what you were doing, did you?</p> <p>10 A Yes, sir.</p> <p>11 Q Okay. Mr. Villano, when you say "yes,</p> <p>12 sir," are you agreeing with me that you never told</p> <p>13 the captain what you were doing in the engine room?</p> <p>14 A Could you repeat that.</p> <p>15 Q When you say "yes, sir," are you agreeing</p> <p>16 with me that you never told the captain what you were</p> <p>17 doing in the engine room?</p> <p>18 A What do you mean, what we were doing?</p> <p>19 Q Okay. Mr. Villano, we're talking about</p> <p>20 when you gave the orders to pump oil over the side.</p> <p>21 Do you remember that?</p> <p>22 A Yes, sir.</p> <p>23 Q And you knew it was wrong?</p> <p>24 A Yes, sir.</p>
Page 67	Page 69
<p>1 Mr. Villano. And from what I've seen so far, there</p> <p>2 was at least two training classes that you took on</p> <p>3 MARPOL; correct?</p> <p>4 A Yes, sir.</p> <p>5 Q And during the MARPOL training, you</p> <p>6 learned that it was wrong to discharge oil or oily</p> <p>7 wastes into the ocean, did you not?</p> <p>8 A Yes, sir.</p> <p>9 Q And you knew that if you did that, you</p> <p>10 could get into trouble for it, did you not?</p> <p>11 A Yes, sir.</p> <p>12 Q And you also knew that if you did that,</p> <p>13 the company who owns the ship and the company who</p> <p>14 manages or operates the ship could also get into big</p> <p>15 trouble for those actions?</p> <p>16 A Yes, sir.</p> <p>17 Q And you also knew that the chief engineer</p> <p>18 could get in trouble for it?</p> <p>19 A Yes, but he's the one that ordered it.</p> <p>20 Q Okay. And you also knew that the captain</p> <p>21 could get in trouble for it, did you not?</p> <p>22 A Yes, sir.</p> <p>23 Q And part of that training, Mr. Villano,</p> <p>24 taught you that if you observed a MARPOL violation,</p>	<p>1 Q And you knew that you and the captain and</p> <p>2 the company could get in trouble; right?</p> <p>3 A Yes, sir.</p> <p>4 Q And you knew that if you saw a MARPOL</p> <p>5 violation or someone asked you to break the law, you</p> <p>6 were supposed to report that to the captain; right?</p> <p>7 A It should have been, yes.</p> <p>8 Q And you never reported to the captain --</p> <p>9 A Yes, sir.</p> <p>10 Q -- you never reported to the captain what</p> <p>11 you were doing in the engine room?</p> <p>12 A Yes, sir.</p> <p>13 Q You agree with me that you never made</p> <p>14 that report to the captain?</p> <p>15 A Yes, sir.</p> <p>16 Q And you never made any notifications to</p> <p>17 Chian Spirit about the overboard discharge orders you</p> <p>18 were giving to your junior engineers, did you?</p> <p>19 A Yes, sir.</p> <p>20 Q When you say "yes, sir," meaning no, you</p> <p>21 never gave any notification, did you?</p> <p>22 A Yes, sir.</p> <p>23 Q Mr. Villano, I think we're saying the</p> <p>24 same thing, but I'm not sure it's clear.</p>

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1 When you say "yes, sir," are you  
2 agreeing with my statement?  
3 A Yes, sir.  
4 Q Now, you never reported to Venetico, the  
5 company that owns the ship, that you were giving  
6 orders to the junior engineers to discharge  
7 overboard, did you?  
8 A Yes, sir.  
9 MR. KOTILA: Stop, George. I'm  
10 sorry.  
11 THE VIDEOGRAPHER: Off the record  
12 at 2:59.  
13 (Brief recess.)  
14 THE VIDEOGRAPHER: We are on the  
15 record at 3:14. This is tape 4 of Edgar Villano's  
16 deposition.  
17 BY MR. CHALOS:  
18 Q Okay. Mr. Villano, let me go back and  
19 revisit some areas that you told us about earlier  
20 today when Mr. Kotila was asking you some questions.  
21 You were the guy who gave the order  
22 to the third engineer to pump the bilges overboard;  
23 right?  
24 A Yes, sir.

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1 Q And you also gave that order to the  
2 fourth engineer as well; right?  
3 A Yes, sir.  
4 Q Now, did you personally tell both the  
5 fourth engineer and the third engineer, or did you  
6 just tell the fourth engineer?  
7 A I told the fourth engineer.  
8 Q Okay. So if I understand you correctly,  
9 you never personally told the third engineer to  
10 discharge anything overboard, did you?  
11 A Yes, sir.  
12 Q Yes, sir, you told him; or yes, sir, you  
13 didn't tell him?  
14 A I did not tell the third engineer  
15 directly.  
16 Q The only person that you ordered to  
17 discharge anything overboard was the fourth engineer;  
18 correct?  
19 A Yes, sir.  
20 Q And you believed that that's what the  
21 chief engineer wanted; correct?  
22 A From what I understood, that I should  
23 tell the fourth engineer, and the fourth engineer  
24 will then in turn tell the third engineer.

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1 Q Well, Mr. Villano, you yourself never  
2 discharged anything overboard, did you?  
3 A Yes, sir.  
4 Q When you say "yes, sir," you're agreeing  
5 with me?  
6 A Yes, sir.  
7 Q So it's a true statement that you, Edgar  
8 Villano, second engineer on board the Irene E.M.,  
9 never operated the pumps to discharge any oily waste  
10 overboard?  
11 A Yes.  
12 Q And it's also a true statement that the  
13 captain never instructed you to either personally  
14 discharge or order anyone to discharge anything  
15 overboard?  
16 A Yes, sir.  
17 Q It's also a true statement, is it not,  
18 Mr. Villano, that no one from Chian Spirit ever  
19 instructed you to discharge anything overboard?  
20 A Yes, sir.  
21 Q In fact, it was completely contrary to  
22 the interests of Chian Spirit for you or anyone else  
23 to do that on board the Irene E.M.? That's correct?  
24 That's a correct statement, Mr. Villano, is it not?

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1 MR. KOTILA: Objection; calls for  
2 speculation on behalf of what Chian's interests are.  
3 BY MR. CHALOS:  
4 Q Okay. You can answer it.  
5 A Yes, sir.  
6 Q So the record is clear, Chian Spirit  
7 never directed you to discharge anything overboard?  
8 A Yes, sir.  
9 Q In fact, it was their direct instructions  
10 not to discharge anything overboard?  
11 A They didn't tell me anything of that  
12 sort.  
13 Q Well, you knew what their policies were;  
14 right?  
15 A Yes.  
16 Q And you went to their training class, did  
17 you not?  
18 A Yes, sir.  
19 Q So you knew it was the Chian Spirit  
20 policy to protect the environment?  
21 A Yes, sir.  
22 Q Okay. And same questions for Venetico,  
23 the company that owns the ship: No one from  
24 Venetico -- strike that. Let me rephrase my



20 (Pages 74 to 77)

Page 74

1 question.

2 It is a correct statement, is it  
3 not, that no one from Venetico ordered you to dump  
4 anything over the side into the ocean?

5 A Yes, sir.

6 Q And it's also a correct statement that  
7 that was against the principal's policies for you or  
8 anyone else to do that on board the ship?

9 A Yes, sir.

10 Q Let's talk a little bit more about the  
11 order.

12 You said the chief engineer gave  
13 you a verbal order to discharge the bilges overboard?

14 A Yes, sir.

15 Q When you say "bilges," what are you  
16 talking about?

17 A The water coming from -- from the bilge  
18 pump.

19 Q So it was your understanding that the  
20 chief engineer, when he gave you an order to pump the  
21 bilge wells -- let me strike and rephrase my  
22 question. I stumbled on my words.

23 It was your understanding, when you  
24 spoke to the chief engineer, he ordered you to do

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1 Q My question was, you don't know what the  
2 quantity was, meaning how many tons or how many cubic  
3 meters, do you?

4 A Yes, sir.

5 Q "Yes, sir" meaning you agree? You don't  
6 know, do you?

7 A I don't know exactly what the total  
8 contents were.

9 Q But you do know that it was the chief  
10 engineer's practice to make internal transfers from  
11 the bilge wells to the bilge holding tank, do you  
12 not?

13 THE INTERPRETER: I'm sorry. I  
14 lost that.

15 BY MR. CHALOS:

16 Q You do know it was the chief engineer's  
17 practice to make internal transfers from the bilge  
18 wells to the bilge holding tank?

19 A That's the normal procedure, sir.

20 Q When -- and if you had done that, there  
21 would be nothing that went over the side into the  
22 ocean; correct?

23 A Yes, sir.

24 Q And that would have been a proper, legal

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1 something with the liquid that was in the bilge  
2 wells; right?

3 A It was verbally told to me. Not only the  
4 bilges, but the sludge as well.

5 Q All right. Now, it's a fact, is it not,  
6 that on board the vessel, it was the usual practice  
7 to transfer materials from the bilge wells to the  
8 bilge holding tank?

9 A Yes, sir.

10 Q And the bilge holding tank was gigantic?

11 A Yes, sir.

12 Q 106 cubic meters at least; correct?

13 A That I could not tell you.

14 Q Well, bigger than you've ever seen on any  
15 of the other 10 ships you were on; right?

16 A Yes, sir.

17 Q Okay. Now, you don't know what the level  
18 of the material in that bilge holding tank was at the  
19 time the chief engineer gave you that verbal order,  
20 do you?

21 A I know.

22 Q Okay. What was it?

23 A It was a collection of bilges from the  
24 bilge well.

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1 way to maintain the oily wastes on board the vessel?

2 A Yes, sir.

3 Q Okay. Now, you also told us that the  
4 chief engineer wrote in a logbook his order?

5 A Yes, sir.

6 Q And what exactly was the words he used  
7 when he wrote that order?

8 A "Out of engine room bilges."

9 Q Okay. And that's exactly what you were  
10 doing when you were making these internal transfers,  
11 was it not? You were emptying out the engine room  
12 bilge wells?

13 A But it's not being done overboard.

14 Q Well, he never wrote in the order "Pump  
15 out overboard," did he?

16 A He indicated in there "out overboard."  
17 And then he even spoke to me directly.

18 Q Wait a minute, Mr. Villano. You just  
19 told us that the written order said "out engine room  
20 bilges"; right?

21 A Yes, sir.

22 Q Now, he never wrote "pump out overboard,"  
23 did he?

24 A It's not written as "overboard," but the

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1 word "out" is written.  
 2 Q The words that were written were "out  
 3 engine room bilges"?  
 4 A Yes, sir.  
 5 Q And again, that's consistent with what  
 6 was going on board the vessel before you joined the  
 7 ship, is it not?  
 8 A Could you repeat that.  
 9 Q I'll withdraw the question.  
 10 Mr. Villano, when you got on board  
 11 the ship, one of the duties that you're supposed to  
 12 have as second engineer is to operate the oily water  
 13 separator, is it not?  
 14 A Yes, sir.  
 15 Q And that's what you do on all the other  
 16 ships that you served as second engineer?  
 17 A Depending on the chief engineer.  
 18 Q All right. Well, on this ship, when you  
 19 got on board, you found out that the ship was pretty  
 20 old; right?  
 21 A Yes, sir.  
 22 Q And you found out that the equipment --  
 23 specifically the oily water separator -- was a model  
 24 that you were unfamiliar with?

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1 some problems; right?  
 2 A Yes, sir.  
 3 Q The calibration was off; right?  
 4 A Yes, sir.  
 5 Q And it was only off a little bit?  
 6 A That, I don't know what the difference  
 7 is.  
 8 Q Okay. Well, I mean, you know what 15  
 9 ppms is; right?  
 10 A Yes, sir.  
 11 Q And you know what -- what did you say, 37  
 12 or 40 ppms was when the automatic shutoff would go  
 13 off?  
 14 A Yes, sir.  
 15 Q So ppm stands for what?  
 16 A Parts per million, sir.  
 17 Q So at 15 ppms, that means if you had a  
 18 sample of oil and water, 15 ppm would mean for every  
 19 one million parts of water, there would only be 15  
 20 parts of oil; right?  
 21 A Yes, sir.  
 22 Q Okay. And 37 ppm would mean for every  
 23 one million parts of water in a sample, there would  
 24 only be 37 parts of oil?

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1 A Yes, sir.  
 2 Q And in fact what you -- you went down to  
 3 try and check it out, but you couldn't even turn the  
 4 thing on?  
 5 A Yes, sir.  
 6 Q You didn't even know how to turn it on?  
 7 A Yes, sir.  
 8 Q You had to call the electrician to show  
 9 you where the switch was?  
 10 A Yes, sir.  
 11 Q Okay. So now you're telling us today,  
 12 earlier today when Mr. Kotila was asking you  
 13 questions, that you're qualified to comment on how or  
 14 if this equipment could work?  
 15 A Yes, sir.  
 16 Q But the truth is, you didn't know how to  
 17 operate it, is it not?  
 18 A I know how to operate it. But the power,  
 19 I don't know where the power was coming from.  
 20 Q Okay. So you tried to familiarize  
 21 yourself by reading the manual; right?  
 22 A Yes, sir.  
 23 Q And then when you were doing some  
 24 testing, you found out that the sensor was having

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1 A Yes, sir.  
 2 Q And that's a very small difference, is it  
 3 not?  
 4 A Yes, sir.  
 5 Q Okay. Now, the chief engineer never told  
 6 you to use the oily water separator, did he?  
 7 THE INTERPRETER: Excuse me. I'm  
 8 missing you.  
 9 BY MR. CHALOS:  
 10 Q The chief engineer never told you to use  
 11 the oily water separator, did he?  
 12 A He told me to study how to use it.  
 13 Q Well, what he told you was to make sure  
 14 you knew how to use it in case you were asked if you  
 15 knew how to operate it; right?  
 16 A Yes, sir.  
 17 Q And that's because you didn't know what  
 18 you were doing? You're unfamiliar with the  
 19 equipment?  
 20 A I studied it and I knew how to do it.  
 21 Q Okay. But before you studied it, you  
 22 were unfamiliar with the equipment?  
 23 A Yes. Yes.  
 24 Q Okay. Now, let's talk about why the

22 (Pages 82 to 85)

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1 chief engineer never ordered you to use the OWS.  
 2 The reason why the chief engineer  
 3 never used the OWS and the reason why he never  
 4 ordered you to use the OWS was because he told you  
 5 that he wasn't comfortable with the accuracy of the  
 6 sensor? Meaning he didn't want to make pollution in  
 7 the ocean.

8 MR. KOTILA: Objection; calls for  
 9 speculation on his behalf.

10 THE WITNESS: Is what you mean is  
 11 that's the reason why he didn't want the separator to  
 12 be used? That that's the reason why he wanted to use  
 13 the magic pipe?

14 BY MR. CHALOS:

15 Q Mr. Villano, he never told you to use the  
 16 oily water separator, did he?

17 A What I told you, I told him -- he told me  
 18 that I should study how to use it.

19 Q Okay. But besides telling you to study  
 20 how to use it, he never told you to use it, did he?

21 A Yes, sir.

22 Q Now, earlier today you told Mr. Kotila  
 23 about several times giving orders to discharge  
 24 overboard. Do you remember that?

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1 A Yes, sir.

2 Q How many times did you actually give an  
 3 order to discharge overboard?

4 A I don't remember anymore.

5 Q You don't remember any more?

6 A Yes, sir.

7 Q So it's fair to say, as you sit here  
 8 today, your memory of how many times you give  
 9 somebody an order to discharge overboard is not  
 10 clear?

11 A I just don't remember. That's it.

12 Q Was your memory better in January, when  
 13 you went to the Grand Jury the first time?

14 A Yes, sir.

15 Q Was your memory better in February, when  
 16 you went the second time to the Grand Jury?

17 A Yes, sir.

18 Q Okay. That was in January and February  
 19 of 2006; right?

20 A Yes, sir.

21 Q Was your memory even better back in early  
 22 December, when the Coast Guard came on board the  
 23 ship?

24 A Yes, sir.

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1 Q And actually when the Coast Guard came on  
 2 board the ship, they asked you to write down what  
 3 happened, did they not?

4 A Yes, sir.

5 Q And you did that?

6 A Yes.

7 Q And it was Mr. McKnight, this gentleman  
 8 over here, that asked you to do that?

9 A Yes, sir.

10 Q Take a look at what we've marked  
 11 Defendants' CSME 22, a one-page document, which  
 12 appears to have the date December 9th, 2005 written  
 13 on the top.

14 Mr. Villano, that's the statement  
 15 that you wrote at the request of the Coast Guard on  
 16 December 9th?

17 A Yes, sir.

18 Q And when you wrote that, your memory was  
 19 a lot fresher about how many times you gave the order  
 20 to discharge overboard, was it not?

21 A Yes, sir.

22 Q And you wrote here, "I was requested by  
 23 the chief engineer to pump out bilges through magic  
 24 pipe. He ordered me directly and wrote down in

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1 engine room logbook. We pump out one time since I  
 2 come on board."

3 You wrote that; right?

4 A Yes, sir.

5 Q Now, does that refresh your recollection  
 6 about --

7 A Yes, sir.

8 Q And it's a fact that since the time  
 9 you've been on board the ship between Brazil and the  
 10 United States, there was only one discharge  
 11 overboard?

12 A I was afraid at that time, sir.

13 Q You afraid at that time. What were you  
 14 afraid of?

15 A Of course, they were telling me that I  
 16 was going to go to jail.

17 Q Who was telling you that?

18 A Madias and Christos.

19 Q Wait a minute. By December 9th,  
 20 Mr. Villano, Christos or Mr. Madias hadn't even come  
 21 on board the ship.

22 A Yes, sir, you're right. I remember.

23 Q Okay. So you were afraid because the  
 24 Coast Guard was pressuring you; right?

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23 (Pages 86 to 89)

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<p>1 A It's not pressure really. It's just that</p> <p>2 we were scared.</p> <p>3 Q What were you scared of?</p> <p>4 A Because we know that what we had done was</p> <p>5 illegal.</p> <p>6 Q When you say "we," this is your</p> <p>7 statement?</p> <p>8 A All of us.</p> <p>9 Q Wait a minute, Mr. Villano. Let's take a</p> <p>10 look at this page.</p> <p>11 That's your signature on the</p> <p>12 bottom; right? And that's your statement?</p> <p>13 A Yes, sir.</p> <p>14 Q And that's the statement that you</p> <p>15 prepared at the request of the Coast Guard?</p> <p>16 A Yes, sir.</p> <p>17 Q And you wrote that you -- that you</p> <p>18 discharged one time since Brazil, right?</p> <p>19 A Yes, sir.</p> <p>20 Q Are you telling us now that what you</p> <p>21 wrote was a lie?</p> <p>22 A No, sir.</p> <p>23 Q So that's the truth, that it was one</p> <p>24 discharge overboard?</p>	<p>1 A I'm not sure of things, so --</p> <p>2 Q So you're not sure exactly how many times</p> <p>3 there were discharges overboard, are you?</p> <p>4 A I don't know of how many, but I know that</p> <p>5 it's a lot.</p> <p>6 Q Well, when you say "it's a lot,"</p> <p>7 Mr. Villano, you never turned the pump on, did you?</p> <p>8 A Yes, sir.</p> <p>9 Q When you say "yes, sir," meaning no, you</p> <p>10 agree with me, you never turned the pump on?</p> <p>11 A Yes, sir.</p> <p>12 Q And you also agree with me that you never</p> <p>13 personally turned the pump off?</p> <p>14 A Yes, sir.</p> <p>15 Q And in fact, you never even saw the pump</p> <p>16 operating?</p> <p>17 A Yes, sir.</p> <p>18 Q You just simply gave the order?</p> <p>19 A Yes, sir.</p> <p>20 Q And on December 9th, you wrote that you</p> <p>21 gave the order one time; right?</p> <p>22 A Yes, sir.</p> <p>23 Q And that's why, Mr. Villano, that you</p> <p>24 went to the U.S. attorney after your first Grand Jury</p>
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<p>1 A I only wrote the one, but I was scared at</p> <p>2 that time. But it was more than once.</p> <p>3 Q Okay. So Mr. Villano, if you're scared</p> <p>4 today, will you say whatever the Government wants you</p> <p>5 to say so you can go home?</p> <p>6 MR. KOTILA: Objection.</p> <p>7 THE WITNESS: Can you repeat that.</p> <p>8 BY MR. CHALOS:</p> <p>9 Q Yeah. If you're scared here today, would</p> <p>10 you say whatever you think the Government wants to</p> <p>11 hear?</p> <p>12 A Like what?</p> <p>13 Q Mr. Villano, you came on board</p> <p>14 November 17th; right?</p> <p>15 A Yes.</p> <p>16 Q And you told us it was just a couple days</p> <p>17 later that the chief engineer gave you this order;</p> <p>18 right?</p> <p>19 A Yes, sir.</p> <p>20 Q You could have gotten off the ship at one</p> <p>21 of the two loading ports?</p> <p>22 A I can only remember one port.</p> <p>23 Q Mr. Villano, your memory is not very</p> <p>24 good, is it?</p>	<p>1 session and started talking about the so-called</p> <p>2 discussions you had with Mr. Madias, because you were</p> <p>3 scared that you would get in trouble?</p> <p>4 A Yes, sir.</p> <p>5 Q And you thought it would help your</p> <p>6 position if you went and shared that information with</p> <p>7 the Government?</p> <p>8 A Yes, sir.</p> <p>9 Q Now, take a look at what we looked at</p> <p>10 earlier today, Government Exhibit 2. And for the</p> <p>11 record, I'll make a representation that earlier today</p> <p>12 you identified those hoses as magic pipe; right?</p> <p>13 A Yes, sir.</p> <p>14 Q And just so we're clear, there's lots of</p> <p>15 flexible hoses like this on board the ships that</p> <p>16 you've served on, is there not?</p> <p>17 A Yes, sir.</p> <p>18 Q This isn't unusual equipment to be on</p> <p>19 board a ship, is it?</p> <p>20 A Yes, sir.</p> <p>21 Q And they're used fairly frequently for</p> <p>22 lots of different functions in the engine room, are</p> <p>23 they not?</p> <p>24 A Yes, sir.</p>



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24 (Pages 90 to 93)

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1 Q You use them with fuel oil sometimes?  
 2 A Yes, sir.  
 3 Q And you can use it with diesel oil;  
 4 right?  
 5 A Yes, sir.  
 6 Q And you can use it with the generators?  
 7 A Yes, sir.  
 8 Q And you can use it with lube oils?  
 9 A Yes, sir.  
 10 Q You can use it with the boilers?  
 11 A That I have not used for a boiler.  
 12 Q But the point is there's lots of uses for  
 13 these flexible hoses; right?  
 14 A Yes, sir.  
 15 Q Okay. Now, take a look at what we've  
 16 looked at earlier today, the items that were  
 17 described as Government Exhibit 3, the flanges.  
 18 A Okay.  
 19 Q Now, there's lots of flanges on board the  
 20 ships that you served on, is there not?  
 21 A Yes, sir.  
 22 Q And there's lots of flanges on board the  
 23 Irene E.M.?  
 24 A Yes, sir.

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1 Q And there's lots of proper purposes for  
 2 the flanges?  
 3 A Yes, sir.  
 4 Q Okay. Now, Mr. Villano, you didn't bring  
 5 those flanges here to this office, did you?  
 6 A Yes, sir.  
 7 Q Wait a minute. You agree with me you  
 8 didn't bring them here?  
 9 A Yes, sir.  
 10 Q And you agree with me that you didn't  
 11 bring the hoses here?  
 12 A Yes, sir.  
 13 Q And can you agree with me that you don't  
 14 know how the hoses or the flanges got to this office?  
 15 A Yes, sir.  
 16 Q And you don't know who took them off the  
 17 ship, do you?  
 18 A Yes, sir.  
 19 Q You don't even know if these actually  
 20 came from the ship?  
 21 A I know.  
 22 MR. CHALOS: Take five minutes.  
 23 THE VIDEOGRAPHER: Off the record  
 24 at 3:45.

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1 (Brief recess.)  
 2 THE VIDEOGRAPHER: We are on the  
 3 record at 3:59.  
 4 BY MR. CHALOS:  
 5 Q Mr. Villano, if I understand what you  
 6 told me correctly, earlier today, when Mr. Kotila was  
 7 asking you questions about the overboard discharge,  
 8 you told him that there was a lot of discharges;  
 9 right?  
 10 A Yes, sir.  
 11 Q And earlier when I asked you the same  
 12 questions, you suggested that there was a lot of  
 13 discharges; right?  
 14 A Yes, sir.  
 15 Q But when the Coast Guard asked you on  
 16 December 9th, you told them that there was only one  
 17 discharge; right?  
 18 A Yes, sir.  
 19 Q And in fact, you wrote that down in a  
 20 statement that you signed and gave to the U.S.  
 21 authorities; right?  
 22 MR. KOTILA: Objection. This is  
 23 asked and answered, that whole area.  
 24 BY MR. CHALOS:

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1 Q You can answer.  
 2 A Yes, sir.  
 3 Q Now, you also talked about the  
 4 superintendent, and that was Mr. Christos?  
 5 A Yes, sir. Yes, sir.  
 6 Q And you told Mr. Kotila that he asked you  
 7 to change your story; right?  
 8 A Yes, sir.  
 9 Q Okay. Well, what actually happened was  
 10 he asked you to prepare a written statement of what  
 11 happened on board to give to the company's lawyers;  
 12 right?  
 13 A He also told me that.  
 14 Q Okay. And then what you did was you  
 15 called all the Filipino crew together and held a  
 16 meeting; right?  
 17 A Yes, sir.  
 18 Q And were you the highest ranking engine  
 19 room officer in that meeting?  
 20 A Yes, sir.  
 21 Q And you didn't invite the chief engineer  
 22 to that meeting?  
 23 A No, sir.  
 24 Q Just Filipinos; right?

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<p>1 A Yes, sir.</p> <p>2 Q You didn't invite Paul Tudor, the</p> <p>3 electrician, to that meeting?</p> <p>4 A No, sir.</p> <p>5 Q And he was a Romanian, the electrician?</p> <p>6 A Yes, sir.</p> <p>7 Q Okay. And then you prepared a four-page</p> <p>8 statement for Mr. Christos to give to the lawyers;</p> <p>9 right?</p> <p>10 A Yes, sir.</p> <p>11 Q And in fact, what you prepared was a</p> <p>12 draft of that letter; right?</p> <p>13 A Yes, sir.</p> <p>14 Q As has the Government ever shown you a</p> <p>15 copy of that draft?</p> <p>16 A Just the end part of it, sir.</p> <p>17 Q Okay. Did you ever give the draft to the</p> <p>18 Government?</p> <p>19 A No, sir.</p> <p>20 Q And you didn't give the draft to</p> <p>21 Mr. Christos either, did you?</p> <p>22 A The draft, no.</p> <p>23 Q So it's fair to say that the draft of</p> <p>24 that statement no longer exists?</p>	<p>1 saw it in the logbook.</p> <p>2 Q So are you telling us here today that</p> <p>3 when you saw the order in the logbook, you knew</p> <p>4 exactly what it meant?</p> <p>5 A Yes, sir.</p> <p>6 Q Okay. Then why did you write on</p> <p>7 December 9th, "When I read the instruction in the</p> <p>8 logbook, I don't know"?</p> <p>9 The truth of the matter is,</p> <p>10 Mr. Villano, that you didn't understand what the</p> <p>11 chief told you verbally and you didn't understand</p> <p>12 what he wrote, and you just made a mistake by</p> <p>13 ordering the fourth engineer to discharge overboard;</p> <p>14 right?</p> <p>15 A No, sir.</p> <p>16 Q So then why did you write, on</p> <p>17 December 9th, you didn't know what the written order</p> <p>18 meant?</p> <p>19 A Could you repeat that. What do you mean?</p> <p>20 Q So then why did you write, on</p> <p>21 December 9th, 2005, when the Coast Guard asked you to</p> <p>22 write down a truthful summary of what happened on</p> <p>23 board, you wrote, "When I read the instruction, I</p> <p>24 don't know."</p>
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<p>1 A Only the rough draft was not given, but</p> <p>2 the actual draft was given to Christos.</p> <p>3 Q Okay. What did you do with the rough</p> <p>4 draft? You threw it out; right?</p> <p>5 A Yes, sir.</p> <p>6 Q And when you wrote that rough draft, you</p> <p>7 didn't keep a copy for yourself?</p> <p>8 A Yes, sir.</p> <p>9 Q When you got on board the ship, it was</p> <p>10 only a matter of days until when the chief engineer</p> <p>11 spoke to you about pumping out the engine room bilge</p> <p>12 wells; right?</p> <p>13 A Yes, sir.</p> <p>14 Q And what he told you to do was to pump</p> <p>15 out the engine room bilges; correct?</p> <p>16 A Yes, sir.</p> <p>17 Q Now, he never used the word "overboard"?</p> <p>18 A Verbally he told me that.</p> <p>19 Q Okay. Now, if I'm asking this for the</p> <p>20 second time please, forgive me. What happened first,</p> <p>21 he wrote the order or he told you the order?</p> <p>22 A He first told me verbally.</p> <p>23 Q First told you verbally?</p> <p>24 A Yes, because then when he came down, I</p>	<p>1 A Perhaps I was just not able to fully</p> <p>2 explain it in that note.</p> <p>3 Q Well, are you guessing?</p> <p>4 A No.</p> <p>5 Q Mr. Villano, take a look at your</p> <p>6 statement. It's right in front of you.</p> <p>7 You wrote, "When I read the</p> <p>8 instruction in logbook, I don't know."</p> <p>9 Do you see that, towards the bottom</p> <p>10 of the page?</p> <p>11 A What I meant by that was --</p> <p>12 Q Well, Mr. Villano, I'm not asking you</p> <p>13 what you meant. That's not what you wrote. What you</p> <p>14 wrote was you didn't know.</p> <p>15 A And that's why I'm telling you that I was</p> <p>16 not able to make a detailed explanation here.</p> <p>17 Q Why not?</p> <p>18 A Because at that time, I was trying to do</p> <p>19 a shortcut, and that's all I could think of. I was</p> <p>20 afraid of what was happening.</p> <p>21 Q So when the Coast Guard interviewed you</p> <p>22 and asked you to write a statement of a truthful and</p> <p>23 accurate summary of the events that took place on</p> <p>24 board, you were taking a shortcut?</p>

26 (Pages 98 to 101)

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1 A That's not the way it is, not really.  
 2 Q So this statement is inaccurate; right?  
 3 A That is what is the truth.  
 4 Q So the truth is, you ordered an overboard  
 5 discharge one time; and that was after you read an  
 6 order that you didn't understand and you went and  
 7 talked to Roberto, the oiler, same guy you talked to  
 8 at lunch today?  
 9 A I really don't understand what you're  
 10 telling me.  
 11 Q Mr. Villano, you told me you speak  
 12 English. My question is in basic English, you have  
 13 the assistance of an interpreter, and you don't  
 14 understand?  
 15 A You're getting me confused with all your  
 16 questions.  
 17 Q Were you confused earlier today when  
 18 Mr. Kotila was asking you questions?  
 19 A No.  
 20 Q Of course not. Because you have a deal  
 21 with the Government; right?  
 22 A No.  
 23 Q You don't have a deal with the  
 24 Government?

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1 A No.  
 2 Q Take a look at what we marked as  
 3 Exhibit 5 prior to today.  
 4 That summarizes the deal you had  
 5 with the Government; right?  
 6 A All I can tell you is I am here to tell  
 7 the truth; that's it.  
 8 Q And that's what you were doing when you  
 9 wrote your December 9th statement. That's all you  
 10 were supposed to do; right?  
 11 A Yes, sir.  
 12 Q You didn't do that December 9th, if we're  
 13 supposed to believe your testimony today; right?  
 14 A I am the one that made this, sir.  
 15 Q Mr. Villano, you made that as a result of  
 16 the Coast Guard asking you to write a truthful and  
 17 accurate statement of what happened; right?  
 18 A Yes. And that's why I was telling you,  
 19 sir, that when I made this, I was a little bit  
 20 scared.  
 21 Q So if I understand you correctly, when  
 22 you're scared, you don't have to tell the truth, in  
 23 your mind?  
 24 A I don't mean that, sir.

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1 Q Okay. So if what you wrote there is  
 2 inconsistent with what you said here today, what's  
 3 the jury supposed to believe?  
 4 MR. KOTILA: Objection. Objection;  
 5 calls for speculation.  
 6 BY MR. CHALOS:  
 7 Q We can agree in December your  
 8 recollection was a lot fresher than it is today;  
 9 right?  
 10 A Yes, sir.  
 11 Q Mr. Villano, you know that some of your  
 12 crew mates made an application to the Court and  
 13 signed declarations; right?  
 14 A Yes, sir.  
 15 Q And you didn't do that?  
 16 A Declaration of what?  
 17 Q Meaning you didn't participate in a  
 18 petition to go home.  
 19 A Yes, sir.  
 20 Q Yes, sir, you agree, you didn't  
 21 participate?  
 22 A Yes, sir.  
 23 Q And the reason why you didn't participate  
 24 was because you're scared of what the Government

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1 could do to you?  
 2 MR. KOTILA: Objection. I'm going  
 3 to object. This is beyond the scope of my direct  
 4 examination. It's totally irrelevant.  
 5 BY MR. CHALOS:  
 6 Q That's the truth, though, Mr. Villano,  
 7 isn't it?  
 8 A No, it's not.  
 9 Q It's not the truth. Okay.  
 10 Then why didn't you join in that  
 11 application to the Court?  
 12 MR. KOTILA: Continued objection.  
 13 THE WITNESS: I just wanted to wait  
 14 until it formally ends.  
 15 BY MR. CHALOS:  
 16 Q Okay. Mr. Villano, in all the training  
 17 you had before you got on board the Irene E.M. about  
 18 MARPOL and the protection of the environment, you  
 19 also learned, sometime before you got on board the  
 20 ship, that if you make a report to the U.S.  
 21 authorities about a MARPOL violation, that sometimes  
 22 the Government gives reward money; right?  
 23 A That I don't know about. I haven't heard  
 24 about that.

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27 (Pages 102 to 105)

Page 102

1 Q Mr. Villano, we met in your lawyer's  
2 office last week.  
3 A Yes, sir.  
4 Q And you remember we talked about that?  
5 A Yes, sir.  
6 Q And you told me that you had learned  
7 about it.  
8 A I just heard about that, I said to you.  
9 Q So then the fact is, as you sit here  
10 today, you know about the fact, in certain  
11 circumstances, the Government gives reward money if  
12 you report a MARPOL violation?  
13 A Yes, sir.  
14 Q Thank you.  
15 Now, you said that the chief  
16 engineer told you to use a magic pipe; right?  
17 A Yes, sir.  
18 Q Now, you knew about a magic pipe long  
19 before you even got on board this ship.  
20 A I just saw it.  
21 Q Okay. So you've seen a magic pipe on  
22 other ships you worked on; right?  
23 A Yes, sir.  
24 Q And you've seen an oiler on another ship

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1 use a magic pipe; right?  
2 A Yes, sir.  
3 Q Now, on that ship that you saw this, that  
4 was a different ship than the Irene; it was a  
5 completely different ship that you talked about.  
6 A Yes, sir.  
7 Q That was owned by a different owning  
8 company?  
9 A Yes, sir.  
10 Q Managed by a different manager?  
11 A Yes, sir.  
12 Q With a different captain?  
13 A Yes, sir.  
14 Q And a different chief engineer?  
15 A Yes, sir.  
16 Q And in fact, Mr. Villano, that was your  
17 practice before coming on board the Irene, to use  
18 magic pipes; right?  
19 MR. TWERSKY: I want to instruct  
20 the witness not to answer the question. I'm going to  
21 instruct him to assert his Fifth Amendment privilege  
22 against self-incrimination as to that question.  
23 BY MR. CHALOS:  
24 Q Mr. Villano, are you going to invoke your

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1 Fifth Amendment privilege?  
2 MR. TWERSKY: He's asking if you're  
3 going to follow the advice of your lawyer and not  
4 answer that question.  
5 THE WITNESS: Yes, sir.  
6 BY MR. CHALOS:  
7 Q Okay. Now, just a few more questions,  
8 Mr. Villano.  
9 You never did change your story,  
10 did you? Meaning that after Christos asked you to  
11 change your story and before he told you to tell the  
12 truth, you never changed your story, did you?  
13 A Yes, sir.  
14 Q Okay. And when you actually spoke to  
15 Mr. Christos for the last time, what he told you to  
16 do was tell the truth; right?  
17 A Yes, sir.  
18 Q And that was the very same thing that  
19 this gentleman named Mr. Madias told you the first  
20 time you met with him?  
21 A Yes, sir.  
22 MR. CHALOS: Okay. I'll look  
23 through my notes, and in the interest of time, I'll  
24 pass the witness to Mr. Woodward.

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1 MR. WOODWARD: Go off the record a  
2 minute.  
3 THE VIDEOGRAPHER: Off the record  
4 at 4:18.  
5 (Brief recess.)  
6 THE VIDEOGRAPHER: We are on the  
7 record at 4:24.  
8 BY MR. CHALOS:  
9 Q Mr. Villano, I just have one or two final  
10 questions.  
11 Earlier today Mr. Kotila asked you  
12 about taking some saltwater on to put in the bilge  
13 tank and some freshwater for the sludge tank. Do you  
14 remember that?  
15 A Yes.  
16 Q You can't tell us, can you, the latitude  
17 and longitude the ship was at when you did it, can  
18 you?  
19 A Yes, sir.  
20 Q When you say "yes, sir," you agree that  
21 it's a correct statement that you don't know where  
22 the ship was?  
23 A Yes, sir.  
24 MR. CHALOS: Thank you. Nothing



28 (Pages 106 to 109)

Page 106	Page 108
<p>1 further.</p> <p>2 CROSS-EXAMINATION</p> <p>3 BY MR. WOODWARD:</p> <p>4 Q Mr. Villano, my name is Carl Woodward,</p> <p>5 and I represent Chief Engineer Adrien Dragomir.</p> <p>6 I've never seen you before and</p> <p>7 you've never seen me; isn't that correct? Before</p> <p>8 today.</p> <p>9 A From what I recollect, you were one of</p> <p>10 the persons that boarded the ship.</p> <p>11 Q I boarded the ship? All right. What day</p> <p>12 did I board the ship?</p> <p>13 A I believe that we were in Camden.</p> <p>14 Q In Camden. And you think I came on board</p> <p>15 the ship in Camden?</p> <p>16 A I'm not sure, but --</p> <p>17 Q Did I give you my card?</p> <p>18 A No, sir.</p> <p>19 Q Who did I represent?</p> <p>20 A Chief engineer.</p> <p>21 Q And you think I was on the ship in</p> <p>22 Camden?</p> <p>23 A I just think you may have been.</p> <p>24 Q But you're not sure, are you?</p>	<p>1 Q You're sure it wasn't in the forward part</p> <p>2 of the main engine?</p> <p>3 A I'm not sure, sir.</p> <p>4 Q What time of day was the conversation?</p> <p>5 A I don't remember any more, sir.</p> <p>6 Q And the conversation was just between you</p> <p>7 and it was -- and Mr. Dragomir; right?</p> <p>8 A Yes, sir.</p> <p>9 Q And at that time, isn't it a fact that</p> <p>10 Mr. Dragomir told you to pump out the bilges?</p> <p>11 A Yes, sir.</p> <p>12 Q And isn't it a fact that you asked him</p> <p>13 how to do it?</p> <p>14 A Yes, sir.</p> <p>15 Q And he told you to go talk to Roberto;</p> <p>16 isn't that correct?</p> <p>17 A Yes, sir.</p> <p>18 Q Now, the next day, did you have a</p> <p>19 conversation with the chief engineer about pumping</p> <p>20 overboard?</p> <p>21 A I don't remember anymore.</p> <p>22 Q Didn't you go to the chief engineer and</p> <p>23 tell him that you'd pumped overboard?</p> <p>24 A From what I can remember, he was the one</p>
Page 107	Page 109
<p>1 A Yes, sir.</p> <p>2 Q You agree with me that you're not sure?</p> <p>3 A Yes, sir.</p> <p>4 Q All right. Now, I'm going to direct your</p> <p>5 attention to the logbook which had the writing from</p> <p>6 the chief engineer in it. Do you have that? Do you</p> <p>7 understand that?</p> <p>8 A Yes, sir.</p> <p>9 Q All right. And if I'm not mistaken, you</p> <p>10 had previously testified that the exact words that</p> <p>11 were written were, quote, out engine room bilges,</p> <p>12 close quote?</p> <p>13 A Yes, sir.</p> <p>14 Q That is correct?</p> <p>15 A Yes, sir.</p> <p>16 Q Now, did you see that writing before or</p> <p>17 after you spoke with the chief engineer about pumping</p> <p>18 out engine room bilges?</p> <p>19 A After I had spoken to him.</p> <p>20 Q All right. When you spoke with the chief</p> <p>21 engineer, the conversation -- where did the</p> <p>22 conversation take place?</p> <p>23 A From what I remember, it was at the mess</p> <p>24 hall, sir.</p>	<p>1 that was asking me.</p> <p>2 Q Isn't it a fact that you told him that</p> <p>3 you pumped overboard?</p> <p>4 A Yes, I told him that.</p> <p>5 Q And didn't he ask you, "Why didn't you</p> <p>6 pump into the bilge tank?"</p> <p>7 A No.</p> <p>8 Q You sure about that?</p> <p>9 A I'm sure.</p> <p>10 Q Didn't he say to you, "Why didn't you use</p> <p>11 the separator," or something like that?</p> <p>12 A No.</p> <p>13 Q Didn't he order you to dismantle</p> <p>14 everything at that time so it couldn't be used again,</p> <p>15 including the magic hose?</p> <p>16 A No.</p> <p>17 Q Do you know that the oily water separator</p> <p>18 could be used manually?</p> <p>19 A Yes, sir.</p> <p>20 Q Did you ever try to use it manually?</p> <p>21 A Yes, sir.</p> <p>22 Q Did you suggest to the chief engineer</p> <p>23 that you should use it manually?</p> <p>24 A No.</p>

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29 (Pages 110 to 113)

Page 110	Page 112
<p>1 Q So you never suggested that to him?</p> <p>2 A Yes, sir.</p> <p>3 Q You never told him that the crew pumped</p> <p>4 out the second time; isn't that right?</p> <p>5 A I told him.</p> <p>6 Q Or any other time?</p> <p>7 A I told him.</p> <p>8 Q Every single time?</p> <p>9 A Not all of it.</p> <p>10 Q How many times?</p> <p>11 A I don't remember, sir.</p> <p>12 Q Every day? Every watch?</p> <p>13 A I could not remember.</p> <p>14 Q Every watch?</p> <p>15 A I don't remember.</p> <p>16 Q Who did the pump-outs?</p> <p>17 A The fourth engineer.</p> <p>18 Q Always the fourth engineer?</p> <p>19 A Yes.</p> <p>20 Q Only the fourth engineer?</p> <p>21 A The third after him.</p> <p>22 Q Oh, so the fourth engineer and the third</p> <p>23 engineer?</p> <p>24 A Yes, sir.</p>	<p>1 A From what I know, sir.</p> <p>2 Q That's true; right?</p> <p>3 A I really don't know, sir.</p> <p>4 Q Well, you could be punished; right?</p> <p>5 A That's possible, sir.</p> <p>6 Q So it's important that somebody else be</p> <p>7 responsible for what happened here; isn't that right?</p> <p>8 A Yes, sir.</p> <p>9 Q In the engine room, is there a blackboard</p> <p>10 or a whiteboard that crew members can write on?</p> <p>11 A There is a blackboard, sir.</p> <p>12 Q All right. And oilers would take</p> <p>13 soundings and periodically write the soundings on</p> <p>14 those blackboards; right?</p> <p>15 A I didn't notice.</p> <p>16 Q Did you ever see anything written on the</p> <p>17 blackboard?</p> <p>18 A Yes, sir.</p> <p>19 Q What did you see written?</p> <p>20 A Sometimes it's a job order, sir.</p> <p>21 Q Okay. And sometimes they're soundings;</p> <p>22 right?</p> <p>23 A I don't remember if there were any.</p> <p>24 Q Now, you said that you helped Roberto</p>
Page 111	Page 113
<p>1 Q The logbook, when was the last time you</p> <p>2 saw it?</p> <p>3 A I don't remember anymore.</p> <p>4 Q I want to go back to a conversation that</p> <p>5 you had with the chief the first time you say you</p> <p>6 pumped overboard and you told him that you had done</p> <p>7 so.</p> <p>8 Where did that conversation take</p> <p>9 place? Strike that.</p> <p>10 Yeah, where did that conversation</p> <p>11 take place?</p> <p>12 A As I told you, from what I remember, it</p> <p>13 was at the mess hall.</p> <p>14 Q It was in the workshop, wasn't it?</p> <p>15 A That I don't remember.</p> <p>16 Q And you and he were the only two who were</p> <p>17 present; isn't that right?</p> <p>18 A Yes, sir.</p> <p>19 Q If you misunderstood his order and pumped</p> <p>20 out illegally, it could go bad for you, couldn't it?</p> <p>21 A What do you mean?</p> <p>22 Q What do I mean? Well, if he did not tell</p> <p>23 you to pump out overboard and you misunderstood his</p> <p>24 order, you could lose your license; right?</p>	<p>1 hook up the magic hose. Do you recall that</p> <p>2 testimony?</p> <p>3 A Yes, sir.</p> <p>4 Q So you were, what, three days out from</p> <p>5 Brazil?</p> <p>6 A Two to three days, about that time.</p> <p>7 Q Two to three days out from Brazil?</p> <p>8 A Yes.</p> <p>9 Q Okay. So there was nothing hooked up at</p> <p>10 that point, was there?</p> <p>11 A No, sir.</p> <p>12 Q The chief engineer didn't speak very good</p> <p>13 English, did he?</p> <p>14 A That, I couldn't tell you.</p> <p>15 Q Well, you had conversations with him,</p> <p>16 didn't you?</p> <p>17 A Yes, sir.</p> <p>18 Q His English wasn't very good, was it?</p> <p>19 A From what I know, I understood him.</p> <p>20 Q You thought you understood him; right?</p> <p>21 A Yes, sir.</p> <p>22 Q Do you have any relatives in the United</p> <p>23 States?</p> <p>24 A Yes, sir.</p>

30 (Pages 114 to 117)

Page 114

1 Q Where are they located?  
2 A From what I know, they're in Seattle.  
3 Q Do you have any friends here in the  
4 United States?  
5 A Not really, no.  
6 Q You'd like to stay in the United States,  
7 wouldn't you?  
8 A That I don't desire.  
9 MR. WOODWARD: Off the record for a  
10 minute.  
11 THE VIDEOGRAPHER: Off the record  
12 at 4:39.  
13 (Discussion off the record.)  
14 THE VIDEOGRAPHER: We are on the  
15 record at 4:41.  
16 BY MR. WOODWARD:  
17 Q The chief engineer never asked you to  
18 change your story or lie in this matter, did he?  
19 A Yes, sir.  
20 Q Now, in this statement that you wrote,  
21 the four-page statement that you said you drafted,  
22 was any of it written by somebody else?  
23 A Yes, sir.  
24 Q Who wrote it?

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1 A Fourth engineer, sir.  
2 Q And why did he write part of it?  
3 A Because I saw that his penmanship was  
4 better than mine.  
5 Q Okay. But with respect to the statement,  
6 the part that you wrote that was in your own  
7 handwriting, at least part of it recounts your  
8 conversation with the chief engineer; correct?  
9 A Yes, sir.  
10 Q But those things that involved the second  
11 engineer -- excuse me -- that involved the third or  
12 the fourth engineer you didn't know about, did you?  
13 A Yes, sir.  
14 Q Meaning you agree with me; correct?  
15 A Yes, sir.  
16 Q So this statement does not reflect --  
17 strike that.  
18 You can't say that everything in  
19 this statement is true?  
20 A I let them read that, sir, before they  
21 signed it.  
22 Q That's not what I said -- that's not what  
23 I asked you.  
24 Other than the things that you know

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1 about directly, anything in here about the other crew  
2 where you were not present, you don't know whether  
3 those are true or not, do you?  
4 A Like, for example, what?  
5 Q Did you know Port State Control asked  
6 Roberto -- or asked about the flanges and Roberto  
7 replied about the flanges. You weren't present for  
8 that, were you?  
9 A Yes, sir.  
10 Q You were not present?  
11 A Yes, sir.  
12 Q You agree with me that you were not  
13 present?  
14 A Yes, sir.  
15 Q That's an example of what you can't say  
16 is true or not; isn't that right?  
17 A Not all of it, sir.  
18 Q And in fact, the conversations that you  
19 wrote down between yourself and the chief engineer  
20 and the electrician were not known by anybody else  
21 who signed this statement; isn't that true?  
22 A All I can tell you is they read it before  
23 they signed it.  
24 Q But that didn't mean that they knew

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1 whether or not the statements were true, because they  
2 weren't present?  
3 A All I can tell you, sir, is I did not  
4 force them to sign this. They read it and they  
5 signed it.  
6 Q That's not what I'm asking. I'm asking  
7 whether they were present when you had conversations  
8 with the chief engineer.  
9 A No, they're not.  
10 Q They were not; right?  
11 A Yes.  
12 Q So they wouldn't know whether the  
13 conversation that you had written down between  
14 yourself and the chief engineer was true or not,  
15 would they?  
16 A Yes, sir.  
17 MR. WOODWARD: Okay. No further  
18 questions.  
19 REDIRECT EXAMINATION  
20 BY MR. KOTILA:  
21 Q Mr. Villano, I just have a couple of  
22 follow-up.  
23 One of the last few things you told  
24 Mr. Chalos was, I believe the last time before you

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1 got off the ship you spoke with Christos, and  
 2 Christos told you to tell the truth.  
 3 A Yes, sir.  
 4 Q But you also agreed when Mr. Chalos said  
 5 Madias said to tell the truth the first time you met  
 6 him.  
 7 A Yes, sir.  
 8 Q So the first time you met Madias, he told  
 9 you that?  
 10 A Yes, sir.  
 11 Q And when did he start telling you to  
 12 change your story?  
 13 A The next day, sir.  
 14 Q And how many times after that?  
 15 A I don't remember exactly anymore, sir.  
 16 Q But there were other times?  
 17 MR. CHALOS: Objection.  
 18 THE WITNESS: Yes, sir.  
 19 BY MR. KOTILA:  
 20 Q Now, you also told Mr. Chalos you had a  
 21 usual practice to transfer bilge wells to the bilge  
 22 holding tank.  
 23 What happened to the oily waste in  
 24 the bilge holding tank?

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1 A It's there sitting.  
 2 Q Okay. Well, tell me, when would  
 3 materials go in the bilge holding tank and when would  
 4 materials go overboard?  
 5 A When the bilge well readings is high,  
 6 when we had not arrived on shore, then we let it  
 7 overboard.  
 8 Q Now, Mr. Chalos keeps referring to a deal  
 9 with the Government; correct?  
 10 A Yes, sir.  
 11 Q You're here to tell the truth; correct?  
 12 MR. CHALOS: Objection.  
 13 THE WITNESS: Yes, sir.  
 14 BY MR. KOTILA:  
 15 Q Just like it says in the document  
 16 Mr. Chalos put before you, the honest truth?  
 17 MR. CHALOS: Objection.  
 18 THE WITNESS: Yes, sir.  
 19 MR. KOTILA: I have no further  
 20 questions.  
 21 RECROSS-EXAMINATION  
 22 BY MR. CHALOS:  
 23 Q Mr. Villano, that's what the Coast Guard  
 24 told you on December 9th; right? They asked you to

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1 tell the truth?  
 2 A Yes, sir.  
 3 Q And you told them that you would do that;  
 4 right?  
 5 A Yes, sir.  
 6 Q Yet the items that appear in that  
 7 December 9th statement are inconsistent with what you  
 8 said today.  
 9 A Because I was afraid. That's it.  
 10 Q You were also afraid, Mr. Villano, when  
 11 you went to the Grand Jury on January 12th, weren't  
 12 you?  
 13 A That's a normal occurrence, sir.  
 14 Q So the answer to my question is yes, you  
 15 were afraid?  
 16 A Not totally, sir.  
 17 Q But a little bit?  
 18 A Yes, sir.  
 19 Q And they asked you, on the 12th of  
 20 January, "After you arrived in the United States and  
 21 the Coast Guard gets on the ship, did anyone tell you  
 22 to lie to the Coast Guard?"  
 23 Your answer was, "When we arrived  
 24 here?"

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1 The question was, "Yes." And then  
 2 you go through and you tell -- give him an answer.  
 3 And you never said anything about  
 4 this guy Madias telling you to lie; right?  
 5 A Yes, sir.  
 6 Q Okay. And then in February, you tell a  
 7 different story to the Grand Jury; right?  
 8 A Yes, sir.  
 9 Q And yet today you tell yet a third story,  
 10 or a fourth story, if you look at the December 9th  
 11 one-page letter you wrote; right?  
 12 A Yes, sir.  
 13 Q And a fifth story, if you look at your  
 14 December 11th statement you prepared for  
 15 Mr. Christos.  
 16 A Yes, sir.  
 17 Q So there's five different stories of what  
 18 happened; right?  
 19 A That's not all different, sir.  
 20 Q Okay. Well, you told Mr. Kotila earlier  
 21 today about something that you thought the chief  
 22 engineer told you to do with filling the tanks. Do  
 23 you remember that?  
 24 MR. KOTILA: Objection. This is



32 (Pages 122 to 125)

<p style="text-align: right;">Page 122</p> <p>1 beyond the scope of my redirect.</p> <p>2 MR. CHALOS: Well, it goes to your</p> <p>3 question about the veracity and accuracy of his</p> <p>4 testimony.</p> <p>5 MR. KOTILA: Beyond the scope of my</p> <p>6 redirection. Objection.</p> <p>7 BY MR. CHALOS:</p> <p>8 Q Well, Mr. Villano, you told Mr. Kotila</p> <p>9 earlier that you filled the bilge tank with seawater?</p> <p>10 MR. KOTILA: Again, objection.</p> <p>11 Beyond the scope of the redirect. Plus, this is</p> <p>12 asked and answered.</p> <p>13 BY MR. CHALOS:</p> <p>14 Q And the sludge tank with freshwater;</p> <p>15 right?</p> <p>16 A Yes, sir.</p> <p>17 Q That's not what you wrote on</p> <p>18 December 11th, 2005, is it?</p> <p>19 A What I wrote then is correct.</p> <p>20 Q Okay. What you wrote then was, "Early</p> <p>21 morning at second engineer watch, they filled bilge</p> <p>22 tank and sludge tank with seawater."</p> <p>23 That's different than what you told</p> <p>24 Mr. Kotila today; right?</p>	<p style="text-align: right;">Page 124</p> <p>1 was the date?</p> <p>2 BY MR. CHALOS:</p> <p>3 Q January 12th, 2006, Mr. Falgowski said to</p> <p>4 you in front of the Grand Jury, "But you also</p> <p>5 understand and it's fair to say that I told you</p> <p>6 you're not a subject and you're not a target of this</p> <p>7 investigation?"</p> <p>8 Your answer: "Yeah."</p> <p>9 The question: "All right. That</p> <p>10 the Coast Guard has no intentions of prosecuting you.</p> <p>11 Do you understand that?"</p> <p>12 Your answer: "Yeah, I understand."</p> <p>13 "Question: But in return, what you</p> <p>14 have to do is you have to give us your</p> <p>15 cooperation; correct?"</p> <p>16 "Answer: Yes."</p> <p>17 That was the deal you had with the</p> <p>18 Government; right?</p> <p>19 A Yes, sir.</p> <p>20 MR. CHALOS: Nothing further.</p> <p>21 RE-CROSS-EXAMINATION</p> <p>22 BY MR. WOODWARD:</p> <p>23 Q Mr. Villano, are you scared today?</p> <p>24 A No, sir.</p>
<p style="text-align: right;">Page 123</p> <p>1 A That is the truth, what I said.</p> <p>2 Q So the truth is what? The sludge tank</p> <p>3 was filled with --</p> <p>4 A Seawater in the bilge tank, freshwater in</p> <p>5 the sludge tank.</p> <p>6 Q But that's not what you wrote on</p> <p>7 December 11th, 2005; right? Do you agree with me?</p> <p>8 A From what I remember, what I told you is</p> <p>9 correct.</p> <p>10 Q Okay. Now, about this deal you had with</p> <p>11 the Government, when you went in front of the Grand</p> <p>12 Jury the first time, there was another prosecutor</p> <p>13 there named Mr. Falgowski; right?</p> <p>14 A Yes, sir.</p> <p>15 MR. KOTILA: Objection; again,</p> <p>16 asked and answered, this whole area.</p> <p>17 BY MR. CHALOS:</p> <p>18 Q And Mr. Falgowski told you and all the</p> <p>19 other people in the room what the deal was; right?</p> <p>20 Do you remember that?</p> <p>21 A No.</p> <p>22 Q Okay I'll refresh your recollection. On</p> <p>23 January 12th, 2006 --</p> <p>24 THE INTERPRETER: I'm sorry. What</p>	<p style="text-align: right;">Page 125</p> <p>1 Q So you were scared on the 9th of</p> <p>2 December, and so you lied on the 9th of December; is</p> <p>3 that right?</p> <p>4 A Yes, sir.</p> <p>5 Q And so it's okay to lie if you're scared?</p> <p>6 A That I could not assure you, sir.</p> <p>7 Q Well, let me ask you this, sir.</p> <p>8 On the 9th of December, you said</p> <p>9 there was only one pump-out. Today you said there</p> <p>10 were more.</p> <p>11 Were you lying then or are you</p> <p>12 lying now?</p> <p>13 A At this time, I'm not.</p> <p>14 MR. WOODWARD: No further</p> <p>15 questions.</p> <p>16 FURTHER REDIRECT EXAMINATION</p> <p>17 BY MR. KOTILA:</p> <p>18 Q Let me just finish up.</p> <p>19 When you were in the Grand Jury on</p> <p>20 January 12th, where Mr. Chalos left off, he read the</p> <p>21 question "But in return" -- this is Page 4 -- "But in</p> <p>22 return, what you have to do is to give us your</p> <p>23 cooperation; correct?"</p> <p>24 A Yes.</p>

Edgar Villano

33 (Pages 126 to 129)

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<p>1 Q And your answer was: "Yes."  2 But the next question: "And your  3 cooperation has to be total and you have to tell us  4 the truth."  5 And you answered: "Yeah."  6 Next question: "You have to be  7 honest with us."  8 "Answer: I know."  9 You gave those answers to those  10 questions; correct?  11 A Yes.  12 MR. KOTILA: All right. No further  13 questions.  14 FURTHER RECROSS-EXAMINATION  15 BY MR. CHALOS:  16 Q Now, Mr. Villano last question.  17 When you made that deal with  18 Mr. Falgowski and he asked for you to tell the truth,  19 that wasn't a different truth than the truth that  20 Mr. McKnight asked you to tell, is it?  21 A It's the same.  22 Q So if you told the truth when  23 Mr. McKnight asked you, the story should be the same  24 when Mr. Kotila asked you; right?</p>	<p>1 EXHIBITS MARKED FOR IDENTIFICATION  2 CSME DESCRIPTION PAGE  3 17 Employment documents of 46  Mr. Villano  4  5 18 Photocopy of Mr. Villano's 46  seaman's book and passport  6 19 Licenses and acknowledgements of 46  Mr. Villano  7  8 20 Certificates of completion of 46  training courses  9 21 Physical and mental testing 46  results of Mr. Villano  10  11 22 Handwritten document of 46  Mr. Villano dated 12-9-05  12  13  14  15 EXHIBITS MOVED INTO EVIDENCE  16 CSMR Exhibit No. PAGE  17 17 49  18 18 50  19 19 53  20 20 56  21 21 62  22  23  24</p>
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<p>1 A Yes, sir.  2 MR. CHALOS: Okay. Thank you.  3 Nothing further.  4 MR. KOTILA: Thank you.  5 THE VIDEOGRAPHER: We are off the  6 record at 5 o'clock.  7 (Signature having been waived, the  8 deposition of EDGAR VILLANO was  9 concluded at 5:00 p.m.)  10  11 INDEX  12 WITNESS: PAGE  13 EDGAR VILLANO  14 Mr. Kotila 4  15 Mr. Chalos 38  16 Mr. Woodward 106  17 Mr. Kotila 117  18 Mr. Chalos 119  19 Mr. Woodward 124  20 Mr. Kotila 125  21 Mr. Chalos 126  22  23  24</p>	<p>1 CERTIFICATE OF SHORTHAND REPORTER  2  3 I, Gail Inghram Verbano, CSR, RMR,  4 the officer before whom the foregoing proceedings  5 were taken, do hereby certify that the foregoing  6 transcript is a true and correct record of the  7 proceedings; that said proceedings were taken by me  8 stenographically and thereafter reduced to  9 typewriting under my supervision; and that I am  10 neither counsel for, related to, nor employed by any  11 of the parties to this case and have no interest,  12 financial or otherwise, in its outcome.  13  14  15  16  17 Gail Inghram Verbano, CSR, RMR  CSR No. 8635  Certification No.: 220  (Expires 1-31-2008)  18  19  20  21  22  23  24</p>